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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Thirteenth periodic reports of States parties due in 1994

Addendum

SPAIN*

[2 February 1995]

* This report contains the thirteenth report of Spain, which was due on 5 January 1994. The tenth, eleventh and twelfth periodic reports of Spain, which were submitted in a single consolidated document, and the records of meetings of the Committee at which those reports were considered are contained in documents CERD/C/226/Add.11 and CERD/C/SR.1054-1056.

The reference documentation provided by the Government of Spain may be consulted by members of the Committee in the secretariat's files.

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Acronyms used in the report

AC ..... Autonomous Community

SC ..... Spanish Constitution

CC ..... Constitutional Court

EU ..... European Union

SRC ..... Sociological Research Centre

Abbreviation

The Convention ..... (United Nations) International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965

* * *

Introduction

1. Last August, the Committee on the Elimination of Racial Discrimination considered the tenth, eleventh and twelfth periodic reports of Spain, that had previously been submitted, corresponding to the years 1988, 1990 and 1992.

2. Although the oral presentation of these reports, by a representative of the Ministry of Justice and the Interior, was very well received by the Committee (largely owing to the documentation, supplied by various organizations, made available during the consideration), the brevity of the written reports, especially that for 1992, was none the less severely criticized by the Committee. In that connection, the Committee deemed it advisable that, in order to mitigate the skimpiness of the reports, the mandatory written report should be submitted with a greater wealth of data than those furnished previously. Consequently, this report, which is to be considered next March, is more extensive than its predecessors.

3. This report contains detailed replies to the questions asked by the Country Rapporteur and other members of the Committee, during its consideration of the past reports, while the documentation relevant to the various questions is annexed hereto.

4. Coordination of the report was entrusted to the Subdirectorate for International Legal Cooperation of the General Directorate for Codification and International Legal Cooperation, Ministry of Justice and the Interior, with the kind and effective cooperation of various ministries, Autonomous Communities, autonomous organizations, legal authorities and the Office of the Attorney-General. The following ministries, administrative departments and organizations assisted in the preparation of the report: Ministry of Social Affairs, Ministry of Education and Science, Ministry of Public Administration, Ministry of Foreign Affairs, Ministry of Culture, Office of the Defender of the People (Ombudsman), National Statistics Institute, General Directorate of Police (MJUS-INT), General Directorate of the Civil Guard (MJUS-INT), General Directorate of Electoral Processes, Aliens and Asylum (MJUS-INT), Underprivileged Population Rehousing Board, Generalitat of Catalonia (Education and Governance Commission), Government of the Basque Country (Interior Commission), Government Office in Ceuta, Government Office in Melilla, Huesca Provincial High Court (Procurator's Department), Saragossa Provincial High Court (Procurator's Department) and the Sociological Research Centre.

REPLIES BY THE GOVERNMENT OF SPAIN TO THE UNITED NATIONS QUESTIONS

I. QUESTIONS BY THE COUNTRY RAPPORTEUR, MR. FERRERO COSTA

A. General

1. Demographic statistics. The composition of the population of Spain. Statistics of the Gypsy and Jewish populations

5. Statistical data on the population of Spain are provided in the tables annexed (annex I), showing:

(i) Population, by sex and age;

(ii) Population by marital status, sex and age;

(iii) Population by nationality, sex and country of birth; and

(iv) Population over 10 years of age by level of education, sex and age.

6. On the other hand, the censuses carried out by the National Statistics Institute contain no data on racial or ethnic identity, a subject which it is not authorized to investigate. Consequently, there are no official data on Spain's Gypsy or Jewish populations. However, unofficial estimates of the Gypsy population have been made (see the reply to question 11).

2. Data on resident aliens and foreign workers, with special reference to Maghrebi and Africans

7. The most recent statistics available are for 1993 (see annex II). They indicate that, on 30 December 1993, there were 430,422 aliens resident in Spain, 9.49 per cent more than in 1992.

8. Statistics for aliens from the Maghreb and from other African countries are included under the heading "Africa", totalling 79,294 individuals, 11.2 per cent more than the previous year.

9. On the basis of another statistical table concerning nationality of origin (annex III), residents originating from countries of the Maghreb (under the heading "North Africa") total 66,073, while those from other African countries total 13,221.

3. Data on persons granted asylum and refugees, number of applications, percentage of acceptances

10. In 1993, a total of 12,615 persons applied for asylum in Spain. This figure breaks down as follows:

A total of 4,944 were from various Latin American countries, the most numerous being from the Dominican Republic (1,809), Peru (1,530), Ecuador (486), Cuba (423), Colombia (385) and Brazil (100);

A total of 2,064 were from Africa (including the Maghreb), the most numerous being from Senegal (569), Liberia (275) and Angola (224);

A total of 3,302 were from Eastern European countries and the new republics of the former Soviet Union, mainly Romania (1,478), Bosnia and Herzegovina (710), Poland (602) and Bulgaria (214); and

A total of 2,287 were from various countries in the Middle East and Asia, particularly the People's Republic of China (1,516), Iraq (210) and the Philippines (140).

11. In 1993, the Interministerial Committee on Asylum and Refuge (CIAR) examined and made recommendations concerning 14,954 cases relating to a total of 17,537 individuals. A large percentage of these concerned applications made in previous years. The number of applications accepted was 952, concerning a total of 1,287 individuals. On the basis of these figures, it appears that a total of 3.95 per cent of cases and 7.33 per cent of persons were accepted.

12. Figures for 1994 are still provisional. However, between January and September, there were 8,518 applications for asylum, among which the most numerous nationalities of origin were China (1,103), Romania (740), Peru (728), Ecuador (623), Senegal (583), Cuba (490), Colombia (428), Iraq (153), Algeria (151), Poland (148), Bulgaria (128), Angola (127), Bangladesh (117), Nigeria (112), Pakistan (107) and Bosnia and Herzegovina (99).

4. Literacy levels. Data on the geographical location and social status of illiterates

13. The 1991 Municipal Census provides the following figures. In all, 1,091,006 persons (3.48 per cent of the 31,344,655 persons aged over 15) stated that they were illiterate. A further 6,643,385 (21.19 per cent) said that they lacked a formal education. This gives a total of 7,734,391, i.e. 24.67 per cent of the population. The figures per Autonomous Community were as follows:

Autonomous Community	Illiterates	Percentage	Without formal education	Percentage
Andalusia	353 875	5.93	1 739 698	29.16
Aragón	17 630	1.64	162 949	15.11
Asturias	9 905	0.99	168 096	16.87
Baleares	17 288	2.77	120 918	19.37
Canary Islands	58 866	4.55	266 635	20.59
Cantabria	3 241	0.69	65 006	13.74
Castilla-La Mancha	84 120	5.77	444 798	30.50
Castilla-León	28 666	1.25	437 675	19.02
Catalonia	123 852	2.27	836 081	15.34
Ceuta	3 387	5.92	9 213	16.09

Autonomous Community	Illiterates	Percentage	Without formal education	Percentage
Extremadura	58 427	6.31	285 078	30.78
Galicia	73 908	3.01	670 318	27.30
Madrid	87 583	1.99	691 610	15.75
Melilla	2 899	6.12	6 910	14.60
Murcia	39 911	4.43	235 249	26.13
Navarre	4 514	0.97	60 254	12.89
Basque Country	24 596	1.29	168 592	8.82
La Rioja	2 543	1.07	39 749	16.66
Valencian Community	105 268	3.09	706 399	20.76

As compared with the previous census (1986), the difference in the total number of illiterates and persons without a formal education was 3,714,855 (13.71 per cent).

5. Rates of unemployment, its impact on the various strata of society, ethnic groups and Autonomous Communities

14. There are no data on the level of unemployment broken down by ethnic group. Data are annexed showing the number of unemployed by level of education, socio-economic status and per Autonomous Community (annexes IV and V).

6. Detailed description of the responsibilities of the various Autonomous Communities, with up-to-date information on the process of transferring responsibilities to each of them and particular reference to education

15. The devolution process is fundamentally regulated by the 1978 Spanish Constitution (SC), and by the following acts:

(a) Act No. 12/1983, of 14 October 1983, on the devolution process;

(b) Organization Act No. 9/1992, of 23 December 1992, on the transfer of responsibilities to the Autonomous Communities (AC) which attained autonomy under article 143 of the Constitution;

(c) Act No. 30/1983, of 28 December 1983 on the transfer of State taxes to the Autonomous Communities.

16. Moreover, each Autonomous Community has its own statute, of which there are 17 in all. The statutes of autonomy are as follows:

1. The Basque Country (Organization Act No. (LO 3/1979) of 18 December 1979);

2. Catalonia (LO 4/1979, of 18 December 1979);

3. Galicia (LO 1/1981, of 6 April 1981);

4. Andalusia (LO 6/1981, of 30 December 1981);

5. Asturias (LO 7/1981, of 30 December 1981);

6. Cantabria (LO 8/1981, of 30 December 1981);

7. La Rioja (LO 3/1982, of 9 June 1982);

8. Murcia (LO 4/1982, of 9 June 1982);

9. Valencian Community (LO 5/1982, of 1 July 1982)

10. Aragon (LO 8/1982, of 10 August 1982);

11. Castilla-La Mancha (LO 9/1982, of 10 August 1982);

12. Canary Islands (LO 10/1982, of 10 August 1982);

13. Navarre (LO 13/1982, of 10 August 1982);

14. Extremadura (LO 1/1983, of 25 February 1983);

15. Baleares (LO 2/1983, of 25 February 1983);

16. Madrid (LO 3/1983, of 25 February 1983); and

17. Castilla - León (LO 4/1983, of 25 February 1983).

17. The powers which the Autonomous Communities may take on are set out in article 148 of the Constitution (see annex VI). All other matters are reserved for the exclusive competence of the State (art. 149). It would take too long to set out in full the specific powers of each Autonomous Community. The relevant information may be found in their respective statutes. Accordingly, we shall restrict this presentation to a number of points connected with the question at hand. The following tables are provided (in annex VII):

(1) Intervention by the public authorities in the exercise of powers within the State with regional devolution (sharing of responsibilities).

(2) Posts transferred to the Autonomous Communities, per ministry.

(3) Posts transferred to each of the Autonomous Communities;

(4) Transfers approved for the Autonomous Communities from 1978 to 1994 (number of Royal Decrees); and

(5) List of Royal Decrees relating to transfers to the Autonomous Communities in the education sphere (annex VIII).

7. Information on unresolved conflicts of responsibility between the Central Administration and the Autonomous Communities, particularly Catalonia and the Basque Country

18. Areas of conflict between the State and the Autonomous Communities are described in the Boletín Informativo published by the Ministry of Public Administration, which is annexed hereto. The publication reports on the proceedings of the Constitutional Court (CC), the Cabinet and the Autonomous Communities, including Catalonia and the Basque Country. The manner in which each conflict was resolved is described.

19. The tables in the Boletín indicate the number of appeals and disputes initiated by the State and the Autonomous Communities respectively. It will be noted that the majority of disputes and appeals concern Catalonia and the Basque Country. On 30 June 1994, the following cases were pending before the Constitutional Court:

8 appeals filed by the State against Catalonia;

10 appeals filed by the State against the Basque Country;

56 appeals filed by Catalonia against the State; and

37 appeals filed by the Basque Country against the State.

20. As so many decisions are pending, it seems inappropriate to provide details of each of them. However, for information purposes, we may mention that disputes pending before the Constitutional Court are classified by subject in two tables on pages 76 and 77 of the Boletín Informativo.

B. Implementation of article 2 of the Convention

8. Is there de facto discrimination against Gypsies in education, housing and employment?

21. The universal right of access to the compulsory levels of education is recognized by law. The right of access to higher education is also recognized, depending on a student's aptitude and vocation, and the exercise of this right may in no circumstances be subject to discrimination on the basis of his or her economic or social status or place of residence. (Right to Education (Organization) Act (LODE), preliminary Title, art. 1.) In any case, as will be clarified below, Spain has pursued a policy of affirmative action on behalf of the Gypsy population in order to remove the obstacles hampering access to education by Gypsy pupils and pupils from other groups living in similar social or economic circumstances and hindering their regular attendance at school and academic success.

22. The programmes implemented for the benefit of Gypsy pupils in the past decade, and more specifically subsequent to the publication of the Royal Decree on Compensatory Education, published in April 1983, serve no other purpose than this.

23. For the same purpose, and as a means of improving cooperation among the States of the European Union in May 1989, during Spain's Presidency of the Union, a resolution of the Council of Ministers of Education was published concerning the schooling of Gypsy and traveller children. The aim of the resolution was to develop "a global structural approach helping to overcome the major obstacles to the access of Gypsy and traveller children to schooling".

24. If de facto discrimination occurs in any of the areas referred to, the Defender of the People Ombudsman takes action either at the instance of a party as a result of complaints lodged by the persons concerned, by associations or by members of parliament, or ex officio, on the basis of information published in the media, in an endeavour to clarify the facts of each situation of which he has become aware and, if appropriate, proposes suitable corrective measures.

9. Does the Government of Spain agree with this statement?

25. Although the promulgation of the Constitution of Spain in 1978 established unqualified equality of treatment for the Gypsy minority vis-à-vis the rest of Spain's population (art. 14), the Constitution also recognized (art. 9) that there were inequalities in practice that might lead to de facto discrimination against specific groups of citizens. Consequently, it makes it incumbent upon the public authorities to take action and to remove any obstacles that might give rise to such discrimination, so as to ensure genuine and effective equality for individuals and groups.

10. Practical measures adopted in the social, cultural and economic spheres to remedy such discrimination

26. In conformity with its constitutional mandate, the Government takes both legal and non-legal steps, such as policy measures implemented through administrative action, on behalf of underprivileged groups, including part of the Gypsy minority.

27. To this end, the Government, more specifically the Central Administration acting through the Ministry of Social Affairs, initiated in 1989 the Gypsy Development Programme (Programa de Desarrollo Gitano) in connection with the implementation of policies targeted at specific groups - one of them being the Gypsy minority - designed to promote equality of opportunity for all citizens. The Programme is the basis for a range of activities to implement the policy measures decided upon, particularly in the areas of education, training, employment, housing, health and justice.

28. In the cultural sphere, the Ministry of Culture participates in the Interministerial Working Group on the Gypsy Development Programme - documentation concerning which is annexed - on which it is represented by the General Directorate for Cultural Cooperation. The Working Group is a coordinating body comprising representatives of various ministries, including the Ministry of Culture, whose competence extends to areas of activity with an impact on the development of the Gypsy community. It exchanges information on positive measures that affect the Gypsy community and coordinates and promotes activities undertaken on behalf thereof.

29. One of the aims of the Gypsy Development Programme is "to preserve and popularize Gypsy culture and traditions"; this takes the form of various events, including conferences, seminars or campaigns for the popularization of Gypsy culture and support for the artistic and cultural initiatives of Gypsies. The General Directorate for Cultural Cooperation convenes annual meetings on the subject of various types of subsidies. Some subsidies have been designed so as to be able to include such events, as in the case of the subsidy for "cooperation, promotion and cultural dissemination", which explicitly supports the promotion of the cultural minorities in Spain, and the subsidy for "training of professionals in the arts and cultural industries".

30. Other centres belonging to the Ministry of Culture, such as the National Institute of Stage Arts and Music (INAEM), are also able to contribute to the holding of such events through their subsidy-allocation meetings.

31. In the last five years, initiatives stemming from various associations belonging to the Gypsy ethnic minority have been supported and subsidized, including:

National Association of Gypsies in Madrid, for periodicals;

Romany Institute of Social and Cultural Services, for periodicals and for the bilingual publication and distribution of the Constitution of Spain, in Spanish and Romany.

32. The National Museum of Anthropology in its Alfonso XII premises which until very recently, was known as the Museum of Ethnology, held a seminar entitled "Expulsion, assimilation and integration: the current situation of the Gypsy community in the Madrid Autonomous Community", from 5 October to 16 December 1993, organized by the Madrid Anthropological Association.

33. Lastly, it should be mentioned that INAEM collaborates, under an agreement, with the "La Cuadra de Sevilla" company of Salvador Távora. This company frequently stages Gypsy-related themes, its Director, Salvador Távora, being of that ethnic group. INAEM also supports, through subsidies, specific artistic events traditionally connected with the Gypsy people, such as:

Cante de las minas;

Biennial of Flamenco Art of Seville;

Joaquín Cortés;

Spanish Art Festival (London). Main Attraction: Cristina Hoyos;

Antonio Canales Ballet.

11. Gypsy census, geographical distribution throughout Spain

34. The fact of belonging to the Gypsy ethnic group is a piece of information protected by the Constitution and cannot therefore be recorded in national or municipal censuses. Statistics are thus based on studies and research on this

Spanish ethnic minority carried out by public bodies and NGOs, with nationwide or regional coverage, some of which are financed by the Ministry of Social Affairs. There are several nationwide studies:

El Libro Blanco: Los gitanos españoles (White paper: the Spanish Gypsies) was prepared by the Institute of Applied Sociology of Madrid in 1978, although its publication date was 1982, and reissued in 1990. It was the first nationwide study to be made of Gypsies. According to the data it gives, the Gypsy population numbered 208,344 in 1978, with a projection of 325,000 in 1992.

In 1983, the Senate Commission on Human Rights and Relations with the Defender of the People collected data on the Gypsy population and its social situation. Although not strictly a sociological research project, it furnishes data on the numbers of the Gypsy population which it puts at approximately 385,000.

In 1987, the Ministry of the Interior carried out a sociological investigation on anthropology and demography in Spain's Gypsy community, although the results were not published. Population 322,480.

Sociological study on the Gypsy community in Spain. This was prepared in 1990 by a social research team and financed by the Ministry of Social Affairs. Population 350,000.

Some experts (J.P. Liegeois (1985), Teresa San Román and Thomas Acton) have estimated the Gypsy population in Spain at figures ranging from 250,000 to 450,000 persons.

35. As was said earlier, various studies and investigations exist of the Gypsy population in the Autonomous Communities and their various cities. In the last 10 years, 16 of the Autonomous Communities have carried out sociological investigations, for the most part financed by the Ministry of Social Affairs and the corresponding Autonomous Governments (regions); a number of them have been published.

36. Studies are also regularly made of specific Gypsy communities, generally of underprivileged persons or drop-outs from society which are to be found in groups, districts or settlements in different parts of Spain, prior to any type of social intervention in those communities', these studies collect variables such as age, sex, habitat, level of education, economic situation, etc.

37. Generally speaking, the Gypsy population is scattered throughout Spain but it favours certain Autonomous Communities such as, for example, Andalusia, Catalonia, Valencia, Madrid and Murcia and tends to settle in urban areas, particularly in the cities of Madrid, Barcelona, Saragossa, Valladolid and Bilbao.

12. Detailed description of the Gypsy Development Plan of the Ministry of Social Affairs: its results, implementation difficulties encountered and its operation in the various Autonomous Communities. How do the Central Administration and the Autonomous Communities coordinate its implementation?

38. The Gypsy Development Programme of the General Directorate for Social Action has since 1989 initiated through the Subdirectorate for Social Service Programmes, a series of activities on behalf of the Gypsy community, thus complying with the contents of the bill submitted to the Congress of Deputies (Spanish Parliament) on 3 October 1995, whereby an immediate plan of action was to be set in motion to rectify the situations of marginalization which affect the Gypsy community.

39. The objectives of the programme are:

To improve the living conditions of Spanish Gypsies and put them on a level of equality with Spain's other citizens;

To facilitate their social integration by access to standardized social protection networks;

To encourage improved coexistence among all citizens, and promote respect for Gypsy culture; and

To set up channels of participation for Gypsies in matters affecting them.

The main action lines are:

Coordination with other ministerial departments and with the executive centres of the Ministry of Social Affairs;

Collaboration with the Autonomous Communities and, through them, with the local corporations;

Financial and technical cooperation with private non-profit-making associations and institutions composed of Gypsies, or associations which promote programmes for their development;

Collaboration with the international organizations; and

Creation of awareness of specific problems of Gypsy culture and training for professionals and persons involved in programmes for the Gypsy communities.

Coordination with other ministerial departments

40. This coordination has been made possible by the setting up of an interministerial working group which exchanges information on positive measures affecting the community and coordinates and promotes activities on behalf of the Gypsy community. Bilateral relations are established for specific topics, as in the case of the Ministry of Education and Science for

dealing with such important matters as: the introduction of multiculturalism in the schools, primary education follow-up for Gypsy children and training courses for professionals working in education and social work directly involved in support programmes for the education of Gypsy children.

41. With the Ministry of Public Works, Transport and the Environment, through the Housing and Social Action Committee on which it is represented together with other ministries, the Ministry of Social Affairs and the Autonomous Communities deal with matters relating to public action policies, the common objective being to ensure that the underprivileged groups, including some members of the Gypsy minority, have access to standardized public housing.

42. The Ministry of Social Affairs collaborates with the Ministry of Labour and Social Security, through training and employment programmes, to facilitate the vocational and social integration of persons belonging to underprivileged groups and ethnic minorities, in which it supplies subsidies and assistance to support programmes of this type for the Gypsy minority.

43. In conjunction with the Ministry of Justice and the Interior, impetus has been given by the Ministry of Social Affairs, to the reform of the Criminal Code, which is now at the parliamentary consideration stage, in that the reform bill classifies individual actions which imply social discrimination or incite others to it as the offence of racism and xenophobia. These amendments represent progress in the legal handling of racism and xenophobia. According to a survey by the Sociological Research Centre (SRC) in 1993, 77 per cent of Spaniards were in favour of such a classification, as against 8 per cent who opposed it.

Collaboration with the Autonomous Communities

44. Since 1989, the general State budget estimates have included a specific budgetary allocation in the form of a Gypsy Development Plan for the co-financing, in conjunction with the Autonomous Communities, of comprehensive projects concerning Gypsy communities - the Ministry of Social Affairs supplying 60 per cent of the total finance for each project and the Autonomous Communities 40 per cent - for assistance to, and the social integration and prevention of marginalization of the Gypsy communities, with a view to meeting the needs of this ethnic group and promoting its development, within the framework of its constitutional rights and duties and respect for its culture.

45. These projects co-financed with the Autonomous Communities also include activities in the areas of education, health, training and employment, and involve the active participation of the Gypsies in their planning and implementation.

46. The projects are promoted and/or managed by the Autonomous Communities, local corporations and private non-profit-making bodies. The Autonomous Community concerned submits them to the Ministry of Social Affairs which, in accordance with the criteria established by a Cabinet decision, determines with the Autonomous Communities (regions) the distribution of the annual allocation, by Autonomous Community and by project.

47. The most pertinent activities of the projects are those supporting and monitoring child education (one of the priority activities), adult literacy campaigns, social support for the processes of rehousing Gypsy families, education for health, the promotion of employment and vocational training, activities to encourage the participation of Gypsies and activities aimed at improving knowledge of their culture, leading to improved citizen coexistence, all of which are coordinated by teams of social workers and/or social services.

Coordination between the Ministry and the Autonomous Communities

48. Coordination between the Ministry and the Autonomous Communities is achieved through the Committee to follow up the comprehensive projects for assistance to and the social integration and prevention of marginalization of the Gypsy community, on which the General Directorate for Social Action and the Autonomous Communities are represented. This Committee meets periodically in order to prepare and present criteria for the distribution, follow-up and evaluation of the projects submitted to the Gypsy Development Plan.

49. Two cooperative bodies exist for the planning and adoption of agreements:

(a) The Commission on Social Welfare and Basic Social Services, made up of General Directors of the Ministry of Social Affairs and the Autonomous Communities with responsibilities in the relevant areas, where the topics and agreements to be adopted by the Sectoral Conference are planned and placed in order of priority; and

(b) The Sectoral Conference, made up of the Minister of Social Affairs and the Counsellors of the various Autonomous Communities with responsibilities in the pertinent area.

50. This Conference formalizes the understandings between the Ministry and the Autonomous Communities on various matters: signing of agreements on collaboration and economic cooperation, undertakings concerning mutual information regarding inspections to assess the implementation of the subsidized projects, and the procedure for the participation of the Autonomous Communities in the subsidy-allocation and coordination meetings in general.

Technical and financial cooperation with private non-profit-making associations and organizations

51. This is achieved through the subsidy-allocation meetings convened by the Ministry of Social Affairs which comprise:

The meeting on social action; and

The meeting concerning the allocation of 0.52 per cent of the income tax on physical persons (IRPF).

52. Subsidies are granted to Gypsy associations and private non-profit-making organizations which work for the Gypsy community for the implementation of the social programmes with the highest priority in each list.

Creating awareness of Gypsy problems and Gypsy culture and training of professionals and individuals involved in programmes catering for the Gypsy communities

53. The Ministry of Social Affairs considers it essential to work on creating awareness of the specific problems of Gypsies and their culture among the general public and professionals in the social spheres involved in dealing with them, and, to that end, has sponsored the pertinent awareness campaigns. It has also sponsored solidarity and coexistence campaigns which endeavour to highlight the theme of racism and xenophobia and promote respect for diversity, directed at both the general public and specific population groups (schoolchildren and young people). Particular mention may be made of the campaigns sponsored by the Ministry and implemented by various NGOs: "Democracy is equality" and "Youth against intolerance".

54. As part of the Council of Europe's General Action Plan, a Spanish Committee has been set up for the European Youth Campaign against racism, xenophobia, anti-Semitism and intolerance (see the ad hoc provision submitted to the Secretariat last August).

55. The Ministry of Social Affairs also organizes training courses for professional staff and Gypsies and non-Gypsies who work with this ethnic minority in order to increase knowledge of Gypsy culture, of the legal and administrative framework and of the most suitable models and methodologies for the social development of Gypsy communities.

56. In some Autonomous Communities, the training plans for professional staff of the public social-services network include training courses on the Gypsy ethnic minority.

The most significant results of the Gypsy Development Programme

57. The most significant results during the years of operation of the Gypsy Development Programme are:

(a) The importance of the social programmes to support child education, which have allowed children full access to the school system and have improved the levels of absenteeism and failure;

(b) The influence of this social support for education on the health of Gypsy women, a decisive factor for the well-being of their families;

(c) The reduction of levels of conflict in the rehousing programmes, where there is intervention by the social area;

(d) The appropriateness of pre-employment courses to enable Gypsies to acquire better employment qualifications;

And, in another area:

(e) The impetus given by the Government for all public institutions to contribute more resources to the Gypsy communities; and

(f) The encouragement of Gypsy participation and association-forming, with particular reference to Gypsy women.

13. Information on the Self-regulating Agreement between the Ministry of Social Affairs and the mass media

58. In view of the importance of the treatment which the mass media give to news concerning Gypsies and the awareness of the Ministry of Social Affairs of the need to promote a positive and non-discriminatory image of the Gypsy community, this department has initiated an agreement on the protection of the culture and image of ethnic minorities in the mass media, which was signed by the Ministry and the Autonomous Communities on 3 November 1994, and which undertakes to promote in each territorial area the signing of a document in which the mass media adopt the principles contained therein.

59. If these agreements have the support of the mass media and the various public administrations, they may help to avoid references to race or ethnic origin in news, publications, etc., which may be pejorative and reinforce stereotypes vis-à-vis persons belonging to a different ethnic group or culture. On the other hand, they may promote positive action by the various administrations in this connection.

14. Information on the Compensatory Education Plan. Results of its application to the Gypsy population

60. It may be considered that the operation of the Compensatory Education Programme has enabled a major advance to be made in standardizing the education of the Gypsy child population.

61. The data given below provide a summary of the activities carried out under the direct management of the Ministry of Education and Science. Reference is solely to those members of the Gypsy population that require the adoption of support or assistance measures in the educational process, either because they have problems of access to or continuation in schools or because their school performance is adversely affected by social or economic factors.

COMPENSATORY EDUCATION PROJECTS FOR THE INTEGRATION OF GYPSY PUPILS. EVOLUTION OF ACTIVITIES AND RESOURCES

COURSE	ACTIVITIES	TEACHERS	PUPILS
1983/84			
1984/85			
1985/86	87	112	3 630
1986/87	73	108	5 247
1987/88	64	223	8 200
1988/89	126	265	7 365
1989/90	280	302	8 619
1990/91	199	208	9 876
1991/92	193	210	9 560
1992/93	268	254	10 225
1993/94	289	283	13 410

Source: Reports on compensatory education, 1983-1994 courses.

62. On another matter, a recent investigation by the Asociación Secretariado General Gitano (Gypsy General Secretariat), with funding from the Research, Documentation and Evaluation Centre (CIDE) of the Ministry of Education and Science, has highlighted the gradual process of normalization of access to education for Gypsy children. It states that 80 per cent of Gypsy pupils began their studies at the age of compulsory school attendance or in the infant preschool system. This should not, however, conceal the premature drop-out rates or the levels of truancy, which seriously affect the academic performance of Gypsy pupils.

15. Information on the Resettlement Plan of the Madrid Municipal Corporation

63. There are two points to be made with regard to this question: the first is that the title is the Rehousing Plan and the second is that the Madrid Municipal Corporation is acting to eliminate the shanty-town problem in conjunction with the Madrid Autonomous Community and the Central Administration, through the Government Office, which acts as Chairman of the Administrative Council of the Consorcio de Población Marginada (Underprivileged Population Consortium), with 50 per cent of the said body's operating costs being defrayed by the Madrid Autonomous Community and the Municipal Corporation.

64. The Consortium in question was set up in 1986 under a cooperation agreement between the Government Office in the Madrid Autonomous Community, the Commission for Town and Country Planning, the Environment and Housing of the Madrid AC and the Urban Development and Infrastructure Department of the Madrid Municipal Corporation, with the aim of providing decent housing for some 1,500 families, mostly belonging to the Gypsy ethnic group, since the insecure conditions of their slum settlements and the insalubrity of their dwellings were considered to be the basic cause of their marginalization.

65. On the basis of the experience accumulated over the institution's first two years of activity, the President of the Madrid AC and the Mayor of the capital city signed a new cooperation agreement on 30 June 1988 for the rehousing of the underprivileged population of Madrid which, in addition to expanding the housing programme to accommodate a larger number of shanty-town dwellers, included a comprehensive social welfare programme, resulting in the admission to the Administrative Council of the Underprivileged Population Consortium of the Commission for Social Integration of the Madrid AC and the Social Services Department.

66. In connection with the above, copies are enclosed of the cooperation agreements signed in 1986 and 1988 (annex IX) and the comprehensive rehousing and social welfare programme of 14 October 1986 (annex X).

Why was 1993 a year of inaction?

67. In 1993, the central, autonomous and local administrative departments making up the Underprivileged Population Consortium decided to evaluate the work carried out by that institution during its seven years of operation, for which purpose the Administrative Council, at its meeting on 28 January 1993, appointed an assessment committee composed of technical experts from the three

administrative departments. The latter concluded its work in May 1993, with the result that the agency was restructured, the same programme objectives being maintained. This is the basic reason why the activities of the Consortium were frozen while it was being overhauled. However, with the aim of compensating for this lack of activity for much of the year, the management of the Consortium submitted a Plan for the Urgent Elimination of Shanty Towns from Madrid (annex XI).

What successes have been achieved and difficulties encountered in rehousing the Gypsy population?

68. The situation halfway through the year was as follows: 600 families have been accommodated in specially designed housing and camps, 1,000 in blocks of flats (the latter being very well adapted to community life), while 1,000 of the families registered with the Consortium are on the waiting list for housing. As regards the comprehensive social welfare programme, it should be mentioned that eight schools with canteen services have been opened in the various camps run by the Consortium, in which 215 children in all are enrolled, their education at kindergarten level being the direct responsibility of the Consortium. The other children, who attend State schools, are the subject of academic monitoring; seven technical training courses have been organized this year for more than 100 participants, and a cooperative has grown out of the ongoing activity of a dressmaking workshop.

69. Nevertheless, the shanty-town phenomenon has not been eliminated.

70. Since the taking of the 1986 census, which is used by the Consortium in its work, the number of illegally constructed shanties in the municipality of Madrid, which are not served by the Consortium, has reached 943; it should be pointed out that, while the shanty-town population in 1986 was mainly of Gypsy origin, it is now beginning to include an immigrant component. For example, the Peñagrande settlement is occupied mainly by Maghrebi, owing to the lack of infrastructure in our country for the reception of this population group.

16. Other measures adopted from 1987 onwards to ensure the development of the Gypsy population

71. The new Cooperation Agreement between the Madrid AC and the Municipal Corporation of the city, dated 30 June 1988, which supersedes the one signed in 1986, has extended the range of activities. For example, it includes as members of the Administrative Council representatives of the Social Integration Commission of the Madrid AC and of the Corporation's Social Services Department since, in addition to the programme to help marginalized population groups, mainly of Gypsy origin, to find decent housing, it is thought necessary to apply a comprehensive social welfare plan which guarantees the most suitable rehousing arrangements, with less likelihood of conflict.

72. The basic objectives of the comprehensive social welfare programme are as follows:

Schooling of the child population;

Full integration of rehoused families into their new environment;

Coordination and cooperation with the various institutions and associations with responsibility for these issues; and

Making the general public aware of the distinctive ethnic and socio-cultural characteristics of the Gypsy people.

These are the objectives which the Consortium introduced after 1986 and which are applied to the shanty-town dwellers listed in the census returns.

17. Is it true that the term "agitanado" appears in the Royal Academy dictionary? Does the Government consider it to have racist connotations? If so, what is being done to eliminate it?

73. The adjective agitanado does appear in the Royal Academy dictionary (Diccionario de la Lengua Española de la Real Academia). It is not considered to have racist connotations. The meaning given to it by that dictionary is: 1. Resembling Gypsies. 2. Gypsy-like. Neither of these two meanings can be considered inherently racist, since they have no pejorative connotations. The derogatory shade of meaning which this term sometimes possesses is conveyed, as with any other word, by the speaker or the context in which it is used. However that may be, it must be emphasized that in no context is the word agitanado used in the Spanish language to refer in derogatory terms to a member of the Gypsy ethnic group.

74. On 4 June 1984, the chairman of a Gypsy association in Castellón lodged a complaint relating to discrimination based on the usual meaning of certain words in the Royal Academy dictionary, stating that it was extremely prejudicial to the Gypsy people. Following a study of the problem, the Defender of the People (Ombudsman) conveyed to the Ministry of Education and Science his opinion that the dictionary, in defining the noun gitanada as an action typical of Gypsies and as flattery, funny stories, endearments and deception usually employed to obtain a desired end, was referring not to the defining characteristics of an ethnic group but to a way of imputing a socially negative form of conduct.

75. He considered that the definition in question, in addition to being potentially prejudicial to the provisions of article 14 of the Constitution, could also violate the right to dignity of the person, honour and personal image guaranteed in articles 10 and 18 of the Constitution. Consequently, he suggested that the Ministry of Education and Science should entrust to the Dictionaries Committee of the Royal Academy (Real Academia Española de la Lengua) the task of reviewing certain terms referring to the Gypsy people, in order to eliminate any meaning that implied discrimination or degrading treatment, to ensure that the Gypsy ethnic group was included in the respect for human dignity laid down in the Constitution as mentioned above. His suggestion was accepted by the Ministry, which initiated a review of the dictionary entries referring to the Gypsy people.

76. However, the June 1992 edition of the Royal Academy dictionary still includes the word gitanada, still with the same definition, so its elimination would seem appropriate.

18. Describe the situation of the Muslim population in Ceuta and Melilla. Have they the same rights and duties? Does de facto discrimination exist? This question was asked as far back as 1986 and has still not been answered

Melilla

1. Background

77. Until 1986, there were three Muslim communities living side by side in Melilla which differed in their legal status: Spanish nationals, aliens and persons who were to all intents and purposes stateless. Following the entry into force of Organization Act No. 7/1985, of 1 July 1985, on the rights and duties of aliens in Spain, the regularization of papers undertaken has made it possible to reduce the number of communities making up today's Muslim population in Melilla to a mere two population subgroups: Spaniards and foreigners.

2. Legal situation

78. The Muslim population subgroup of Spanish nationality has the same rights and obligations as all other Spaniards, and there is no legal discrimination based on the fact of religious difference.

79. It should be pointed out, however, that the Spanish Civil Code establishes a distinction between native-born Spaniards and Spaniards who have acquired Spanish nationality by other legal means (as in the case of some Muslims); native-born Spaniards may never be stripped of their Spanish nationality while those who have acquired such nationality could be deprived of it under certain conditions laid down by law. However, those conditions are always of an objective nature (e.g. fraud in obtaining Spanish nationality), and in no case do they include subjective elements such as the fact of racial, ethnic or religious difference.

80. The Muslim population subgroup of foreign nationality, for its part, has the same rights and obligations as other foreigners, in accordance with the statutory provisions applicable to the entire Spanish territory. The only existing legal distinctions stem from objective conditions prescribed by laws or regulations (for example, certain facilities granted to foreigners who are nationals of the other European Union countries), although such conditions never include racial, ethnic or religious aspects, either directly or indirectly.

81. The entire Muslim population of Melilla is further protected by Spanish laws against racism, xenophobia and discrimination on ethnic or religious grounds which, for the most part - as far as their main protective effect is concerned - are reflected in the Criminal Code in force.

3. De facto situation

82. Various communities live together in harmony in the city of Melilla. From a strictly religious standpoint, and in decreasing order of population size, the following four communities are found: Christians, Muslims, Jews and

Hindus. None of these communities is the object of discrimination - in the negative sense of the term - either by the others or by the public authorities.

83. As far as the Muslim community is concerned, there are very pronounced basic differences in per capita income between its members: a tiny minority with a very high level of income and the great majority with very low incomes. However, the remedial measures adopted in recent years by the Government have facilitated the incipient emergence of a middle class, which will tend to bring the situation into line with general patterns in the country.

84. The Central Administration has, for a number of years, been engaged in a continuous campaign of positive discrimination in favour of the less privileged communities, the chief beneficiaries of which have been the disadvantaged members of the Muslim community, because the indices used to measure their respective situations in objective terms (per capita income, unemployment, etc.) have encouraged this. Accordingly, Muslims of Spanish nationality are benefiting, as full citizens, from the allocation of subsidized housing, sanitation and transport infrastructure and a State-run comprehensive training programme. They are also receiving grants for cemeteries and mosques, religious instruction within the State education system, food aid (Red Cross), etc.

85. Lastly, it should be borne in mind that the disadvantages experienced by some members of the Muslim community resemble conditions found in the majority (Christian) religious community and, in both cases, an effort to remedy them is being made by the public authorities on the basis of objective criteria, without reference to negative racial or religious aspects; the objectives being the same for all Spanish citizens in the same socio-economic situation.

Ceuta

86. According to the working data used by the Government Office at the end of last year, the Muslim population of Ceuta comprises 16,474 persons. Spanish nationality has been acquired by 14,240 members of this community. The rest are included in the so-called Muslim census. These 2,054 persons, including minors, are holders of the so-called identity and residence card (Tarjeta de Identidad y Residencia - TIR), which has replaced the former statistical card (Tarjeta Estadística - TE) and is issued by the Government Office specifically to citizens of Moroccan origin without identity papers who, whether or not they were born in Ceuta, have put down roots in the city, if these circumstances are confirmed by a prior police report. Holders of this document are authorized to reside in Spain with all the rights and obligations laid down by Organization Act No. 7/1985, of 1 July 1985.

87. Focusing on this community, which is growing steadily smaller on account of the gradual access to Spanish citizenship which obviously marginalizes the remaining Spanish Muslims, we may state for information purposes (and this point is confirmed in the preamble to the Joint Agreement of the Under-Secretaries of Justice, the Interior and Labour and Social Security, dated 5 December 1986), that their status as permanent residents of Ceuta and Melilla reflects a set of special features which, while setting them apart

from the position of outright foreigners, and without being formally comparable to the legal status of nationals, offers some scope for their assimilation.

88. There is no de facto discrimination and the public authorities make it possible for their customs, specific characteristics, language, etc., to be developed and exercised in a climate of total respect for their innermost convictions.

89. Finally, an accurate description of the actual situation must include a reference to the quiet and peaceful coexistence in Ceuta of four communities - Hindu, Muslim, Jewish and Christian - as an example of the integration of different cultures, races and religions.

19. Foreigners and immigrants: Explanatory information on the significance of Act No. 7/1985, particularly articles 6 (Compulsory residence), 8 (Public order, public morals, etc.), 9 (Reciprocity of the right to education), 11 (Scope) and 34 (the ruling of the Constitutional Court declaring the article unconstitutional is requested)

Article 6: Compulsory residence

90. The fundamental right to liberty of movement and freedom to choose one's place of residence, explicitly recognized in article 19 of the Constitution and under the terms of article 13 of the same text, is restricted by Act No. 7/1985 in exceptional cases, when the law so provides or the Minister of the Interior so directs for reasons of public security. These contingencies are provided for in article 12, paragraph 3, of the International Covenant on Civil and Political Rights, which was ratified by Spain in 1977.

91. The restriction concerning compulsory residence is provided for in Organization Act No. 4/1981 of 16 November 1981, governing states of alert, states of emergency and states of siege (art. 20, para. 5). Any application of this measure extra legem for reasons of "public security" must be authorized by a special decision and, when invoking this concept, the Minister of the Interior must act "on the basis of the necessary grounds and concrete facts, no matter how meagre" (Supreme Court judgement of 10 April 1987).

92. In any event, since the publication of Organization Act No. 7/1985, the restrictions provided for in article 6 have not been applied to lawfully resident foreigners.

Article 8: Public order, public morals, etc.

93. This provision, the second paragraph of which governs the right of association, was declared unconstitutional by Constitutional Court judgement No. 115/87 of 11 July 1987, thus cancelling the Government's authority - on the application of the Minister of the Interior - to dissolve or suspend the activities of associations promoted by or mainly composed of foreigners, for reasons of public order, public health or public morals. In the above-mentioned judgement, the Constitutional Court took the view that administrative intervention was "incompatible with the guaranteed right of

association, for foreigners as well, recognized in article 22, paragraph 4, of the Constitution", and that, in any case, monitoring the exercise of the fundamental right of association was exclusively reserved to the judiciary.

Article 9: Reciprocity of the right to education

94. The right of foreigners to education and freedom of teaching recognized in Act No. 7/1985 is given expression within the educational system in the following laws: the Right to Education (Organization) Act (LODE), articles 1 to 3 of which set out explicitly the right of foreigners resident in Spain to receive free basic education and to graduate to higher levels of education; and the Educational System (General Organization) Act (LOGSE) which establishes the rejection of all types of discrimination and respect for all cultures as a guiding principle in education. These rights are recognized without any condition of reciprocity.

95. Freedom to teach - in the sense of the right to impart education - is recognized but not fully realized. Organization Act No. 8/1985 grants this power only to private natural or legal persons of Spanish nationality, so that, since the legal framework in respect of foreigners is inadequate, recourse must be had to the principle of reciprocity to facilitate its exercise in practice.

Provisions relating to the immigrant population in the Spanish educational system

96. Immigrant groups are singled out among the foreign school population resident in our country and specific activities are instituted for them because of their social and cultural disadvantages.

97. Title V of the LOGSE is thus devoted to compensation for inequalities in education. It gives explicit form to the commitment of the public authorities to assign human and material resources to schools whose pupils have special difficulties in attaining the overall objectives of education.

98. Intervention with these groups is based on the following criteria:

(a) Equality of opportunity and compensation for needs:

(i) Activities designed to eliminate the difficulties that these children may have in fully exercising their right to education and benefiting from educational services; and

(ii) Analysis of the personal, social and cultural conditions of their environment, which should serve as an instrument to facilitate the resources needed to address their educational needs;

(b) Standardization and integration:

Observance of socio-cultural diversity is a component of the ordinary system and does not, in any way, imply any form of segregation inside or outside the

schools. These children, like all others, attend the schools in the area in which they live and are enrolled at the appropriate levels in accordance with the regulations currently prevailing.

(c) Recognition of differences and multicultural education:

(i) The approach to diversity should include consideration of children's skills, interests and patterns of learning as well as recognition of their social and cultural differences and the enrichment that comes with them;

(ii) Multicultural education is not an approach specific to schools in socio-economically deprived areas. It is a desirable quality that is needed in all schools, and is the most effective way of preventing the attitudes of rejection or exclusion that are currently evinced towards these groups; and

(iii) Intervention should take account not only of children's adaptation to the conditions of the educational system but also of the changes that need to be made to curricula and the organization of teaching.

99. Analysis of the educational needs of these groups and their origins has given rise to the following classification of activities:

With the Portuguese-speaking population;

With the Bosnian population;

With the Moroccan population; and

With other immigrant groups.

Article 11: Scope of this Act

100. The Act regulates the entry of foreigners into Spain as a faculty ("foreigners may ...") apart from the, presumably exceptional, cases foreseen in the law of states of alert, exception and siege. In normal circumstances, therefore, provided the requirements set out below are met, foreigners may enter Spain. The requirements, to be checked at frontier control posts empowered to do so, are:

(a) Documentation, which must be adequate to determine the legal status, identity and nationality of the person, together with his or her entitlement to entry (e.g. possession of a valid visa, if required);

(b) Proof of possession of sufficient economic resources, in terms of the provisions of the ministerial order of 22 February 1989 on the possession of economic resources that must be proved by foreigners in order to enter Spain;

(c) Non-existence of an express prohibition of entry, on account of having been previously expelled or being the subject of an international search and arrest warrant; and

(d) Fulfilment of requisite health conditions in the interests of public health (although this control is not in practice carried out at frontier posts).

101. Notwithstanding the foregoing, in special situations ("if there is sufficient reason") the Minister of the Interior may authorize the entry, transit or stay on Spanish territory of foreigners who do not meet the above requirements (cf. art. 12, para. 4, in conjunction with art. 11, para. 4 of Organization Act No. 7/1985). Article 12, paragraph 4, has been developed by Instruction No. 2/91, of 29 January 1991, of the Secretariat of State for Security.

Article 34, on the suspension of administrative decisions relating to aliens

102. Subparagraph 2 of this provision, which refers to the mandatory execution of administrative decisions adopted in relation to aliens, was declared unconstitutional by Constitutional Court judgement No. 115/87, of 7 July 1987, on the grounds of violation of article 53 of the Constitution. The text of this judgement is attached (see annex XII).

20. Current policy on foreign immigration. Is there discriminatory treatment? Rules since 1986. Conditions for entry and employment

103. The accession of Spain to the European Union has led, inter alia, to the adoption of measures to permit freedom of movement and establishment by EU nationals on the territory of the member States. This has meant the introduction of a different regime for nationals of members of the European Union as compared with the provisions applicable to foreigners subject to the General Regime provided for in Act No. 7/1985. That Act in turn contains provisions for favourable treatment of persons originating from Latin America, the Philippines, Equatorial Guinea, Andorra and for persons of Sephardic origin (who are given preference in obtaining work permits, Organization Act No. 7/1985, art. 18, para. 3). Finally, favourable treatment in the granting of Spanish nationality is also given to persons of these nationalities.

104. A photocopy of the regulations currently applicable to aliens is attached (General Regime and Community Regime). Articles of the Criminal Code relating to offences by foreigners against freedom and security at work (art. 499 bis) of the present text and articles 286, 287 and 288 of the proposed new Criminal Code are likewise attached. With regard to offences relating to fundamental rights and public freedoms, article 165 of the present and article 491 of the draft new Criminal Code and, with regard to unlawful associations that promote racial discrimination, article 173 of the present Criminal Code and article 494, paragraph 5, of the draft new Criminal Code are also attached (see annex XIII).

105. With regard to eligibility to work, the general rule established in article 15, paragraph 1 of Act No. 7/1985 is that foreigners who wish to take up residence in Spain for the purpose of working as self-employed or employed

persons must, at the same time as a residence permit, obtain a work permit issued by the Ministry of Labour and Social Security for a maximum duration of five years.

106. Work permits may be limited to a given territory, sector or activity, or to a specific enterprise, as may be statutorily determined (art. 33 et seq. of the Regulations implementing the Act). The types of work permit that may be issued to foreigners to work in Spain are:

(a) for employees:

A permit: may be issued for seasonal or cyclical activities and may not exceed a duration of nine months (Regulations, art. 35);

B permit: valid for work in a particular occupation, activity and geographical area; the maximum period of validity is one year (Regulations, art. 36); and

C permit: valid for work in any occupation and geographical area; the maximum period of validity is five years (Regulations, art. 39).

(b) For the self-employed:

D permit: for the practice of a self-employed activity, which may be restricted to a particular locality; the maximum validity is one year (Regulations, art. 40); and

E permit: valid for any self-employed activity, without geographical restrictions, with a validity of five years (Regulations, art. 41).

(c) Employed or self-employed frontier workers:

F permit: the maximum validity is three years.

Annex XIV contains the rules applicable to these subjects, together with the articles of the Criminal Code referred to above.

21. Details of the campaign to increase awareness among civil servants. What exactly does it consist of?

107. This campaign, financed by the Ministry of Social Affairs and the Secretariat of State for Public Administration, in collaboration with the Workers Unions Congress, was launched experimentally in August 1994. The Autonomous Communities of Asturias, Catalonia, Madrid and Valencia were chosen as pilot areas for the campaign. The object was to create awareness among civil servants of the problem of racial discrimination and to promote integration. The methods used consisted in the distribution of a leaflet and a poster with the slogans of the campaign. The results have not yet been evaluated.

22. The Immigration Plan of the Ministry of Social Affairs. What is the policy on visas and family reunion?

108. Immigration policy requires joint action, in which the essential objectives to be attained are clearly defined. These are:

(a) The elimination of all forms of unjustified discrimination, in respect of the exercise of rights and access to existing services;

(b) The promotion of coexistence based on democratic values and attitudes of tolerance;

(c) Guaranteeing a situation that is legally and socially stable;

(d) Overcoming obstacles to integration;

(e) Combating exploitation; and

(f) Mobilizing society against racism and xenophobia.

Instruments

109. Measures of an instrumental character that are indispensable for the implementation of the Plan:

(a) Ongoing surveillance of immigration:

An accurate understanding of the facts to be operated upon is needed for effective management.

Functions:

Making a quantitative and qualitative assessment of the realities of immigration;

Establishing an accurate forecast of its evolution and consequences;

Assessing the impact on the host community; and

Producing an accurate picture of the facts.

(b) Forum for the integration of immigrants:

A channel must be established for participation and dialogue between the different bodies involved, constituted on a tripartite basis by:

The public authorities (central, autonomous community and municipal);

The host society (NGOs, trade unions); and

The immigrants (associations).

Spheres of activity

110. Integration must be the result of a plan, in the sense of an interrelated set of measures to be adopted in different spheres. Identification of these spheres serves two fundamental purposes:

(i) To identify the dimensions that may be regarded as strategically important in the process of integration; and

(ii) To devise a coordinated set of activities.

111. The spheres of strategic activity would be as follows:

(a) Legal framework:

Subjection of migratory movements to the rule of law;

Stabilization of the legal situation of immigrants; and

Gradual adaptation of certain provisions as needed for a multi-ethnic and multicultural society.

(b) Occupational and working conditions:

Development of informational and vocational-training activities;

Elimination of structural barriers to equal access to the labour market; and

Coaching immigrants to make use of existing (administrative and trade-union) mechanisms for the defence of their rights as workers.

(c) Educational and cultural sphere:

The main difficulties are to be found in overcoming language barriers and in teaching methods that are unprepared for multicultural education;

Women's literacy and cultural adaptation;

Artistic events, which fulfil a twofold strategic function: they permit immigrants and the host society to develop a relationship in an atmosphere of creation and expression of human values and appreciation of an outstanding artist is carried over to the society from which he or she originates.

(d) Territorial coexistence:

Facilitating family life; and

Bringing the immigrant gradually to accept the way of life of the host society.

Housing:

Collective measures should be avoided, if they are conducive to an exclusive concentration of immigrants;

Obstacles based on xenophobic motives must be tackled; and

Work permits should be linked to the availability of accommodation for temporary stays.

Social exclusion:

The access of immigrants to social services should be facilitated; and

Civil servants should be suitably indoctrinated.

(e) Civic participation:

Naturalization should be facilitated, without renunciation of the nationality of origin, and electoral participation encouraged;

The right to belong to trade unions should be highlighted; and

The immigrant-association movement should be developed and incorporated into the life of the host society.

Visa policy

112. As a general principle, Spain requires visas in the case both of persons intending to make a temporary stay and those applying to move to Spain for more permanent residence. However, agreements exist with various countries to do away with visas for short stays (of not more than 90 days), as well as in other situations covered by international agreements (crews of vessels, plane crews, border residents), which involve exceptions to the principle.

113. Visas for less than 90 days are known as short-stay visas, and may be valid for one or several entries, or for one or several exits, in which case they are known as multiple visas. Transit or double-transit visas also exist which are valid for up to five days for persons who need to pass through Spain on the way to a third country. Special visas may also be granted, including business visas, artists' visas, study visas, etc. which require specific conditions or requirements to be met depending on the subject matter.

114. The residence visas of persons who move to Spain to work must contain a reference to the work permit which has to be obtained in advance, and in respect of which a favourable report is required from the competent labour authority.

115. Visa applications must be submitted to the Spanish diplomatic or consular office in the country of origin of the foreign national.

Visas for family reunion in the case of aliens who are not nationals of the member States of the European Union

116. A number of rules have recently been adopted to establish criteria for family reunion and to devise the procedure to be followed in such cases, in the form of a decision by the Cabinet of 12 November 1993 (criteria), and a Resolution of 15 February 1994 (procedure). Both were published as joint instructions from the under-secretariats of the Ministries of the Interior, Labour and Social Security and Social Affairs (see annex XV).

117. Family reunion is a fundamental aspect of the social integration of immigrants and, although our law does not classify it as a right, the Ministry of Social Affairs has encouraged its de facto implementation in view of the importance it assigns to family life.

118. In October 1993, the Cabinet approved a decision establishing the procedure for family reunion. The requirements established for the application for reunion were:

Proof of a number of years of residence in Spain and the holding of a renewed B permit;

Justification of adequate economic resources. In the case of workers under contract, sufficient income is considered to be that attributed legally or by collective agreement to the occupation practised;

Adequate housing for the number of family members and the geographical area in question. This fact is to be justified by means of the corresponding notarial act of presence and other official declarations.

119. The Ministry of Social Affairs has been monitoring the issue of notarial acts with the relevant professional associations.

120. The procedure for obtaining the family-reunion documents is carried out, in the case of the person wishing to bring his or her family together, through the Ministry of Justice and the Interior and, in the case of the family members, through the Spanish consulate or the consular department of the Spanish embassy.

23. Legal rules for the right of asylum and refugee status. Have there been any changes?

121. Act No. 5/1984 of 16 March 1984, on the right of asylum and the recognition of refugee status, was amended by Act No. 9/1994 of 19 May 1994. The reform of the Act came into force on 13 June 1994 (see Annex XVI, with the amendments resulting from it in bold type). At the moment, a royal decree is being prepared for the adoption of the regulations implementing the Act.

24. Give details of the reform of the Asylum Act

122. The reform contained in Act No. 9/1994, of 19 May 1994, does away with the double pattern and a double procedure established in Act No. 5/1984 to obtain the status of asylum-seeker or refugee status in accordance with the

1951 Geneva Convention relating to the Status of Refugees. The second of these patterns (refugee) is retained, and the benefits contained in the Geneva Convention of 1951 and the 1967 Protocol are granted to persons recognized as refugees, particularly the right to live and work without restrictions.

123. An accelerated procedure has also been introduced to declare inadmissible manifestly groundless or abusive requests for asylum, and a formal admission procedure for persons applying for asylum at the frontier.

124. The new Act also provides for the possibility of allowing asylum-seekers whose application has been declared inadmissible or rejected to remain in Spain under the general aliens regime when this is justified on humanitarian grounds or is in the public interest, particularly in cases of persons displaced as a result of conflicts or serious political, ethnic or religious disturbances.

25. Give an account of racist and xenophobic attitudes, particularly towards Africans and Latin Americans. In February last, the Defender of the People (Ombudsman) reported to Parliament racist attitudes on the part of members of the forces of order, particularly at airports (31 complaints in 1992), and incidents at Algeciras (Moroccan ferry). A United States citizen of colour (a student) was beaten up by skinheads. Is all this true? If so, what measures have been taken?

125. In his 1992 report, the Defender of the People, in the section on discrimination on racial grounds in connection with article 14 of the Constitution (principle of equality), refers to the investigation during 1992 of five racist and xenophobic complaints including the one mentioned, concerning a United States non-white student who was beaten up by "skinheads".

126. However, the 31 complaints referred to in the question, concerning racist attitudes on the part of members of the security forces, were investigated under article 13 of the Constitution, concerning the implementation of the Organization Act on the rights and duties of aliens in Spain, and, according to the information available, most of them related to administrative shortcomings, with no racist connotations.

127. In only one case was there an investigation of the attitude of an agent of the State security forces, in connection with an identity check on a Spanish citizen of colour, in order to verify whether the words he had used denoted a racist attitude.

128. No racist or xenophobic attitudes are found among the units of the Civil Guard in their dealings with individuals and, if they should happen to occur, they are brought to the attention of the judicial authority. Most of the complaints known to have been made have been dismissed.

129. It also happens that there are complaints in ports and airports when searches take place owing to suspicions which certain persons arouse in the officials performing them; such persons then feel racially discriminated against vis-à-vis the rest of the passengers, even if they are from the same country or ethnic group.

130. The following statistics may be deduced from the monitoring of xenophobic and racist acts in Spain, as from the second half of 1993, by the General Commissariat for Aliens and Documentation, which assembles facts that have been reported in police stations:

(a) Xenophobic or racist acts against Africans:

1993 (second half)	21
1994 (first half)	10
1994 (third quarter)	3

(b) Xenophobic or racist acts against Latin Americans:

1993 (second half)	2
1994 (first half)	2
1994 (third quarter)	3

The graphs containing the data relating to all xenophobic and racist acts reported in police stations in Spain are attached (see annex XVII).

26. Has racism increased in Spain?

131. The analysis of cases known to police stations, as an expression of racist violence, shows that there has indeed been an increase in such acts in recent years, as well as an increase in the monthly average of cases of racism as from 1991, with a greater incidence in the Autonomous Communities of Madrid and Catalonia.

132. More specifically, a total of 47 victims of acts of this type was reported in the second half of 1993, while 20 persons were arrested during the same period as alleged perpetrators of such acts. In the period January-September 1994, the acts reported gave a total of 32 victims and 11 arrests. Such acts can be attributed to individuals who are members of neo-Nazi groups or associations of the extreme right, as well as to the so-called "skinheads" and sports hooligans, although it should be borne in mind that the groups are very fragmentary ones with a limited number of militants and very little social influence.

133. The most common form of offence is that of assault, "skinhead" groups being mainly responsible. Such cases of assault, which take the form of group violence, form a contrast to the propaganda activities which constitute the major activity of the structured organizations. Of the latter, among organizations with a neo-Nazi ideology, mention may be made of: the Centro Español de Amigos de España (CEDADE), the Vanguardia Nacional Revolucionaria, Bases Autónomas, Resistencia, Orgullo Blanco, Acción Radical, Núcleos Hispanos, the German National Socialist Workers' Party (organized abroad) and, among those of the ultra-right Frente Nacional and Juntas Españolas.

134. Of all these, the only organization to be found in the Register of Associations of the Ministry of Justice and the Interior, and which therefore has legal coverage, is:

Juntas Españolas.

Organizations that were previously registered and subsequently had the registration annulled are:

Fuerza Nueva, annulled on 10 December 1982;

Frente Nacional, annulled on 20 July 1994.

The remaining organizations do not appear in the Register (see annex XVII, bis).

27. Rules and measures adopted to prevent, curb and avoid racist and xenophobic acts

(a) Civil Guard

135. Where the Civil Guard is concerned, more service patrols have been organized in places frequented by foreign workers, particularly North Africans.

136. In the daily instructions to members of the Civil Guard, stress is laid on extreme correctness in dealing with individuals as well as strict observance of the fundamental rights of the person as recognized in the Spanish Constitution.

137. Reports of complaints made at Algeciras and in an airport are attached (annex XVIII).

(b) Police

138. Action by the authorities and those responsible for the safety of the population have always been geared to preventive measures in order to avoid such acts.

139. As far as regulations are concerned, the Instruction of the Secretariat of State for Security of December 1992 (Instruction No. 12/92), was issued with the intention of preventing the violent activities of some radical groups following the observed increase in such activities; since it was considered that such groups might possibly form the embryo of future violent radical organizations with objectives that might at times be noticeably xenophobic or racist. The Instruction stressed the need for the Police to assemble information on radical and violent groups with extremist ideologies which expressed hatred of and hostility towards specific ethnic groups or groups of foreigners, to carry out a specific investigatory operation, and as a last resort, to take action with all the severity permitted by the regulations in force.

140. The General Directorate of the Police, aware of the importance of the preventive work of gathering information on the activities of certain groups, has recently encouraged certain initiatives which significantly assist the work of monitoring the activities of the organized illegal immigration networks and of instances of xenophobia or racism.

141. A result of this idea has been the creation within the General Commissariat for Aliens and Documentation of a data bank on illegal

immigration networks and xenophobic and racist acts, and the consolidation within the General Commissariat for the security of the population of a complete data bank with a wide range of specific data which serve as a basis to guide police operations. As far as this question is concerned, the relevant data are those contained in the "police analysis of racism and xenophobia (skinhead groups)".

142. The activity of investigation has been entrusted generally to the police service as a whole, in accordance with the functions assigned to it by constitutional mandate and legal obligation.

143. More specifically, the investigation into the evolution of these groups has been assigned, within the central structure of the General Directorate of Police, to the General Commissariat for Information, while peripheral units have for some time been mainly responsible for the follow-up and monitoring of persons and groups concerned in such activities.

28. What measures are being adopted to ensure that the Police and the Civil Guard carry out their duties of protection and respect and do not commit acts motivated by racism?

144. On the basis of the constitutional ban on all acts of discrimination, Act No. 2/86, the Security Forces and Security Corps (Organization) Act, establishes some basic principles of action, amounting to a genuine code of conduct, which lays down as one of its fundamental tenets respect for the honour and dignity of the individual and, in particular, prohibits arbitrary or discriminatory practices of any kind.

145. The Act itself, like the Disciplinary Regulations of the National Police Force, considers the abuse of functions and the practice of degrading, discriminatory and humiliating treatment of persons in the custody of police officials to be a very serious disciplinary fault.

146. In application of the regulations in force, any action contrary to them must form the subject of an exhaustive report and will incur disciplinary liability, without prejudice to any criminal liability that may be appropriate.

147. In the same order of ideas the Subdirectorate of Operations, distributed in April 1993, for information and implementation by all police authorities throughout Spain, the twelve-point programme for the prevention of torture prepared by Amnesty International. This contains a catalogue of measures for controlling torture and other inhuman or degrading treatment until they can be completely eradicated, and a recommendation to the authorities at all levels to demonstrate their utter opposition to racism.

29. What measures are being adopted by the Government to verify and respond to the complaints reported by the Defender of the People?

148. The Defender of the People submits an annual report to Parliament whose responsibility it is to study and approve it and to adopt appropriate legislative measures on the proposal of parliamentary groups or individual members.

149. If the report of the Defender of the People contains evidence of criminality in any form, it is the duty of the Executive to bring it to the attention of the Attorney-General, so that the appropriate proceedings can be undertaken. The courts are the bodies competent to try and punish offences. It is the Government's responsibility to adopt administrative measures, which may include sanctions if irregularities are proved.

150. All in all, it is virtually impossible to describe all the activities of the Administration, the different areas of action of which would have to be examined on a case-by-case basis.

C. Implementation of article 4 of the Convention

30. Extent of the reforms of the Criminal Code. Details of the aggravating circumstances in the case of offences with a racist component (penalties, etc.). Characteristics of the new offence of justification (apología) in this context. The reformed text is requested

152. The bill to organize the Criminal Code introduces several amendments to the legislation in force, the significance of which will be clear from the texts of the articles reproduced below:

> Article 23. Aggravating circumstances (of criminal liability) shall be as follows:
>
> (...) "5. Committing any of the offences against persons or property because of anti-Semitism, racism or other motives connected with the ethnic or national origin or religious profession of the victim,"
>
> Article 490. (within the Section devoted to offences committed in connection with the exercise of the fundamental rights and public freedoms guaranteed by the Constitution).
>
> "Any persons who directly provoke, including by means of justification (apología), through the press, broadcasting or any other publicity medium, discrimination against persons or groups by reason of their national origin, their membership of a race or their ethnic origin, shall incur the penalty of a term of imprisonment of from one to three years and a fine of from six to twelve months' income".
>
> Article 598 (Genocide offences).
>
> "Any persons who, for the purpose of destroying in whole or in part a national, ethnic, racial or religious group, perpetrate any of the following acts shall incur the penalty of:
>
> 1. A term of imprisonment of from 15 to 20 years, if they kill any one of its members.
>
> If two or more aggravating circumstances are present in the act, the higher penalty shall be imposed.

2. A term of imprisonment of from 15 to 20 years, if they cause any of the injuries specified in articles 149 and 150 of this Code.

3. A term of imprisonment of from 8 to 15 years if they subject the group or any of its individual members to conditions of existence that imperil their lives or seriously damage their health.

4. The same penalty, if they carry out forcible displacements of the group or of its members, adopt any measure likely to impede its way of life or its reproduction or if they transfer individuals by force from one group to another.

5. A term of imprisonment of from four to eight years, if they cause any other injury to those indicated in paragraph 2 of this article."

In this connection, article 149 refers to the loss or incapacitation of a principal member or organ or of a sense, and to impotence, sterility, a serious disfigurement, a serious psychosomatic illness or the loss or serious limitation of the capacity to work. Article 150 refers to the loss or incapacitation of a member or organ which is not a principal one and to deformity.

153. It should be mentioned, however, that the aforesaid bill is still pending and has yet to be debated in and approved by Parliament.

31. It is true that there are extreme right-wing and neo-Nazi organizations and political parties in Spain that promote racist attitudes (Centro Español de Amigos de España (CEDADE), Fuerza Nueva (FN), Juventudes Españolas (JE) and Nuevas Juventudes (NJ))? If such exist, will the reform of the Criminal Code render it possible to punish them and, in the event, dissolve them?

154. There is freedom of association and assembly and of political parties in Spain, protected by the Constitution. Associations are regulated by the Constitution itself (art. 22) and, in part, by the Associations Act of 24 December 1964, to the extent that it has not been repealed.

155. Article 22, paragraph 2, of the Constitution provides that associations which pursue ends or utilize means that are qualified as constituting an offence are illegal. As stated in the last reply, the Criminal Code includes offences with a racist component. However, according to paragraph 4 of the same article, associations can be dissolved or suspended only by virtue of a court order stating the reasons therefor.

156. According to paragraph 5, secret associations and paramilitary associations are prohibited.

157. As for political parties, these are regulated by Act No. 54/1978 of 4 December 1978, article 1 of which states that Spanish citizens may establish them freely, in exercise of their fundamental right of association.

According to article 6 of the Constitution, political parties are free of control, provided that they respect the Constitution and the law.

158. Political parties must be enrolled in a Register kept by the Ministry of the Interior (now Ministry of Justice and of the Interior). If, from an examination of the documentation submitted, it is inferred that there is reasonable evidence of illegality under the criminal law, the Ministry of the Interior shall bring the case to the attention of the Attorney-General. If the latter concludes that there is evidence of illegality under the criminal law, he shall apply to the competent judicial authority to declare the party unlawful (art. 3 of the aforesaid Act). Consequently, associations and parties, even of the extreme right, must conform to the legal provisions set forth or else be declared unlawful and dissolved. This does not prevent the perpetrators, accomplices or abettors of specific offences from being punished under the Criminal Code.

159. Under article 173 of the Criminal Code in force, associations that promote or incite to racial discrimination are unlawful. Article 174 sets forth the penalties that shall be imposed on their founders, directors, presiding officers and active members. It will, likewise, be agreed that the unlawful association must be dissolved.

160. Unlawful associations are also punishable under article 494 of the bill to organize the Criminal Code. That article defines what associations are unlawful including, in its paragraph 5, "those which promote or incite to racial or xenophobic discrimination".

161. As has been explained in the reply to the question concerning the rise of racism in Spain, there are indeed extreme right-wing organizations and organizations with a neo-Nazi ideology, some of which have legal cover (see the reply to question no. 26).

D. Implementation of article 5 of the Convention

32. It is not sufficient to mention the Constitution and the legal standards that guarantee the same rights for all. Examples may be quoted, such as that given on 28 September 1992 in El País concerning a hypermarket that prohibited the entry of Gypsies. There are also complaints concerning employment and work conditions (Maresme, Ceuta and Melilla). What is wanted is an account of the practical measures adopted to apply effectively the legislation concerning each of the subparagraphs of article 5 of the Convention

162. In connection with this paragraph, there are no records of complaints submitted to the Civil Guard stations concerning special employment conditions in the areas of Maresme, Ceuta and Melilla. It would seem that it is an habitual practice of illegal immigrant personnel (smuggled in by professional networks) to take jobs which, in some way or another, conceal their position, in exchange for wages inferior to those of the ordinary worker and less social guarantees than those to which they would be entitled, although both sets of conditions are superior to those in their country of origin. Such situations are accepted because the immigrants hope to legalize their position.

163. As for practical measures with respect to employment, we may cite the following:

(a) Regulations, articles of collective agreements, individual contracts and unilateral decisions by the contractor are null and void if they contain either favourable or adverse discrimination in employment or in the matter of wages, hours of work and other working conditions, based on origin, race, social condition or language within the Spanish State (art. 17 of the Workers' Statute).

(b) If a collective agreement violates the legislation in force, the labour authority must transmit it ex officio to the competent court, which shall adopt appropriate measures for the purpose of correcting the alleged irregularities (art. 90 of the Workers' Statute).

(c) Unilateral decisions by the contractor which imply favourable or adverse discrimination in respect of wages, hours of work, training, promotion and other conditions of work for reasons of origin, race, social condition, religious or political ideas or language within the Spanish State are classified as very serious misdemeanours (Act No. 8/1988, of 7 April 1988, concerning social misdemeanours and punishments), it being the duty of the Office of the Inspector of Labour and Social Security to initiate the prosecution on its own initiative or on the complaint of a party. (See also art. 499 bis of the Criminal Code mentioned in the answer to question no. 20).

(d) In addition to the administrative actions mentioned in the two paragraphs above, the courts are also responsible for ensuring the effective application of the principle of no racial discrimination, as contained in the Constitution and the law.

E. Implementation of article 6 of the Convention

33. The Defender of the People (Ombudsman). How does he act? How is his work coordinated with that of the ombudsmen of the Autonomous Communities? Give details of the latter

164. The Defender of the People acts either at the instance of a party or ex officio through administrative inquiries into the facts reported, making recommendations or suggestions to the administration for the purpose of correcting any irregularities found.

165. His work is coordinated with that of the ombudsmen of the Autonomous Communities through the provisions of Act No. 36/1985, of 6 November 1985, which regulates these relationships and through the signature of cooperation agreements with the various autonomous ombudsmen who, at the moment, are eight in number. In fact, he has done so to date with the Síndic de Greuges de Catalunya and the Diputado del Común de Canarias.

166. Without prejudice to the activities of the Defender of the People already mentioned, as regards the elimination of the discriminatory semantic term gitanada, other practical activities of the institution in connection with Gypsies have been those relating to the Consortium for the Housing of the Madrid Gypsy Population in the areas of Vicálvaro-San Blas, La Celsa and

others, where the Ombudsman visited various Gypsy settlements for the purpose of seeking direct solutions to the rehousing problem with the Madrid Municipal Corporation and the Madrid Autonomous Community, or his intervention in the case of the forcible eviction and the demolition of shanties in the Matalablima quarter of Oviedo.

167. On the other hand, with respect to the conditions of employment and work in specific areas of Spanish territory, the Ombudsman has carried out a very practical follow-up operation in connection with the conditions of work of Maghrebi immigrants throughout the area of Fraga, Province of Huesca, contacting town halls, law-enforcement bodies and the Provincial Labour Directorate.

168. The Ombudsman's last two annual reports each contains a chapter devoted to the examination of the rights and freedoms of foreigners in Spain, in which full coverage is given to the problems arising from the measures restricting immigration which, although they cannot be regarded as directly violating the provisions of the Convention, may indirectly give rise in practice to discriminatory action. Such is the case, for example, of the immigrants from Central African countries who are living in the Melilla Red Cross reception centre. The Defender of the People, making use of all the possibilities open to him under the Organization Act, carried out an inspection to determine the facts and, subsequently, made a series of recommendations to the proper administrative bodies and brought the facts he had discovered to the knowledge of Parliament, so that it could adequately follow up the situation.

169. Lastly, it should be mentioned that, in connection with the effective implementation of the general principle recognized in article 5 of the Convention, namely, the obligation to prohibit and eliminate racial discrimination in all its forms and to guarantee the equality of everyone before the law, the Ombudsman, bearing in mind the fact that his mandate requires him to protect the fundamental rights recognized by the Constitution, is systematically developing his work and requiring the public administrations to comply with that principle in all their day-to-day activities.

34. Give information concerning the number of complaints he is dealing with, mentioning their type, with particular reference to those connected with problems of racial discrimination

170. In the 1993 report, investigation was continuing of three complaints connected with racist matters that had appeared in the 1992 report while, during 1993, six allegations of a racist nature were investigated, namely:

The alleged mistreatment by officers of the security forces of a Moroccan national and a Peruvian national during an identity check;

The living conditions of a group of Moroccan immigrants in Pozuelo de Alarcón, Madrid;

Attacks upon and expulsion of a Gypsy family in Real de Gandía, Province of Valencia;

Alleged discriminatory treatment by the owners of a public establishment in Reus, Province of Tarragona;

Alleged discrimination against a Gypsy who applied for admission to the security forces; and

Outbreaks of violence that occurred in various places in the Province of Lérida connected with the presence of foreign workers who had come to take part in the fruit harvest.

35. How effective has the Defender of the People been in dealing with complaints? What results has he obtained in cases of racial discrimination?

171. The results cannot be measured in absolute terms because the annual reports present not only the activities of the year in question but also the follow-up to the activities of previous years. Nevertheless, in the context of racial discrimination since the year 1989, the Ombudsman has devoted a specific section to this subject, endeavouring to separate complaints relating to foreigners in general from those that seem to have racist connotations.

172. The basic result of his activities is that there is now permanent monitoring of any racist and xenophobic acts that occur in Spanish territory for the purpose of calling the attention of the administration thereto so that it can adopt appropriate measures to prevent such acts.

36. What is the structure of his report to Parliament? Is there a section devoted to racism or xenophobia? How is it followed up and how effective is it?

173. In chapter I of the report, devoted to activities concerning fundamental rights and public freedoms, there is a section referring to the principle of equality (art. 14 of the Constitution) and within it to the follow-up of complaints concerning racial discrimination.

174. As for effectiveness, in respect of correcting administrative attitudes, of a total of about 23,000 complaints considered during the 1993 administrative year (the latest data available), a positive result was obtained in 78 per cent of the admissible cases and, to date, over 100 general recommendations have been accepted.

37. The Government procurators and the Attorney-General. How are they appointed?

175. The Office of the Attorney-General is regulated by Act. No. 50/81, of 30 December 1981, which contains its Organizational Statute.

176. The Attorney-General's Office forms part of the judiciary but has functional autonomy. In keeping with the principle of legality, its actions are subject to the Constitution, the laws and the other standards of the legal order in force. In keeping with the principle of impartiality, the Office acts with full objectivity and independence in defence of the interests entrusted to it.

177. The Office is staffed by officials of the procuratorial service (carrera fiscal), who form a single corps organized hierarchically.

178. Entry to the procuratorial service is by public competition, as established by regulations, which include the qualifications required by law. The programme and criteria of the entry examination are similar to those of the judicial service (carrera judicial).

179. The Commission for the competitive examination for entry to the procuratorial service consists of the following members: one member of the Office of the Government Procurator of the Supreme Court, who acts as Chairman of the Commission; one Government advocate; one member of the judicial service; one professor of law; one practising advocate appointed on the proposal of the General Bar Council; one lawyer from the Ministry of Justice and one member of the procuratorial service employed in the Technical Secretariat of the State Attorney-General's Office.

180. The status of member of the Office of the Attorney-General is acquired, once the appointment has been validly made by order of the Ministry of Justice, by taking the oath or making an affirmation and reporting for duty. The title of Government procurator is accorded by the Minister of Justice (and the Interior). Promotion to the higher category in the service is by Royal Decree.

181. The Office is administered by the State Attorney-General who, in accordance with article 22, paragraph 2, of the Statute, is its executive head and represents it throughout the territory of Spain. The State Attorney-General is appointed by the King, on the proposal of the Government, after hearing the views of the General Council of the Judiciary (art. 124, para. 5 of the Constitution). The Statute sets out the requirements for this post. Article 29, paragraph 1, of the Statute provides that he must be chosen from among Spanish jurists of recognized prestige, with at least 15 years of effective exercise of the profession. Thus, the post of Attorney-General is not an office in the procuratorial service, although there is no objection to him having been a member thereof. His removal from office is also the responsibility of the King, on the proposal of the Government, after hearing the views of the General Council of the Judiciary.

Case of Violetta Friedmann. Constitutional Court judgement of November 1991

182. The Constitutional Court judgement of November 1991 on the "Violetta Friedmann" case and another judgement by the Supreme Court on the subject are attached (annex XIX).

F. Implementation of article 7 of the Convention

38. Give an account of the main public or private institutions in Spain in the area of human rights. Is there any institution that deals in particular with issues of racial discrimination?

183. The principal public institution in the area of human rights is the Defender of the People established by article 54 of the Spanish Constitution

as the High Commissioner of the General Cortes, appointed by them for the protection of the rights contained in Title I of the Constitution. The Office of the Defender of the People is regulated by Organization Act No. 3/1981, of April 1981, (Boletín Oficial del Estado of 7 May 1981).

184. In the private sphere, the principal association is the Asociación Pro Derechos Humanos [Association for Human Rights], with its headquarters at Calle Ortega y Gasset no. 77, Madrid. There are several associations and organizations whose activities have to do with the defence of human rights; a list of them is contained in the archives of the secretariat of that association and was submitted last August.

39. Are the annual reports of the Defender of the People made suitably available to public opinion? How?

185. The reports submitted to the General Cortes are debated in Parliament and amply reported by the media. Nevertheless, in certain particular cases, the Defender of the People deems it appropriate that these reports should also be transmitted to the media for information and dissemination.

40. Is there any form of training for the forces of order designed to promote and disseminate among them respect for human rights?

(a) National Police

186. The subject of human rights is included in the curricula and plans for basic and advanced police training of officers of the National Police Corps.

187. The advanced-training curriculum includes the topics of fundamental rights and public freedoms, and the protection of rights and freedoms, which are included in the specific subjects of constitutional law and criminal law. As part of the content of the subject of criminal procedural law, the jurisdictional and procedural aspects of the remedy of amparo in the Constitutional Court, the procedure of habeas corpus, and the organization and functioning of the European Court of Human Rights, are studied.

188. In the basic-training curriculum, the scope and protection conferred by human rights is studied specifically as part of the subjects of police law and the history of the police function.

189. As part of the complementary training activities programmed for the current academic year, short courses and special conferences on this subject are planned, including conferences on racism and xenophobia and on the European Convention on Human Rights.

(b) Civil Guard

190. All training centres and some specialized training centres include in their curricula, usually in the area of professional ethics, classes on the Universal Declaration of Human Rights; the Convention for the Protection of Human Rights and Fundamental Freedoms; the International Covenant on Civil and Political Rights; resolution 690 of the Parliamentary Assembly of the Council of Europe on the police; the Code of Conduct for Law Enforcement Officials;

the directive of the Council of Europe on the training of police officers in their relations with immigrants and ethnic groups; the recommendations of the European Committee for the Prevention of Torture, etc.

191. At the same time, conferences or seminars are also scheduled in all courses, with lectures by speakers of national or international standing on various aspects of the European Convention on Human Rights and international humanitarian law.

192. To take a specific example, on 15 November last an information day on the European Convention on Human Rights was held at the Special Academy of the Civil Guard at Aranjuez, Madrid, which was attended by 45 instructor-officers from training centres. The speakers were Giuseppe Guarneri, Santiago Quesada and Monserrat Enrich, from the Directorate, Commission and European Court of Human Rights of the Council of Europe.

41. Have the various international instruments on human rights been translated into the languages of the Autonomous Communities? Has the International Convention on the Elimination of All Forms of Racial Discrimination been translated also?

193. There are translations into Catalan and Euskera (the Basque language) of several of the instruments mentioned in the question, for which bibliographical references are attached. As for the Galician language, we have been informed to date only of the translation of the Universal Declaration of Human Rights, which is also attached.

G. Articles 14 and 22 of the Convention

42. Does the Government of Spain intend to make a declaration relating to article 14 of the Convention (recognition of the competence of the Committee to receive communications from individuals)? Ten European countries have already done so, four of which are members of the European Union

194. The position of Spain is favourable towards the acceptance of complaints from individuals or groups of individuals claiming to be victims of violations of fundamental rights and freedoms. Since 1981, Spain has accepted the competence of the European Commission of Human Rights to receive individual petitions, and, since 1985, the competence of the Human Rights Committee also to hear individual cases. As regards a declaration relating to article 14 of the Convention, recognizing the competence of the Committee to receive individual communications, there is no reason why Spain should not make such a declaration, as other European States have done.

43. Does the Government of Spain intend to withdraw the reservation it entered at the time to article 22 (acceptance of the jurisdiction of the International Court of Justice in the case of a dispute)?

195. In 1990, Spain deposited a unilateral declaration accepting the competence of the International Court of Justice. The opinion of the Ministry of Foreign Affairs is in favour of withdrawing the reservation entered by Spain to article 22 of the Convention, whereby a State party undertakes to accept the jurisdiction of the International Court of Justice in the case of a dispute.

II. QUESTIONS BY MR. BENTON

44. Does the Government of Spain agree that racism is on the increase in Spain? (Supplement to question 26)

196. Many instances of racist attitudes are more acts of common delinquency than a reflection of extensive racist feeling in Spanish society. Nevertheless, the recent economic crisis has at times produced a feeling of rejection towards foreigners looking for work in Spain. It is not unusual, therefore, in the highly radicalized sectors of our society connected with extreme right-wing groups, to hear expressions with a racist content (such as negro or sudaca [South American]), terms which have been increasingly used by these groups in recent times. Apart from this, the problem of the Gypsies, inseparable from Spanish history, arises essentially from society's ignorance and lack of awareness of the culture of the Gypsy race rather than from actual racist feeling.

45. Does the Government of Spain accept the views of distinguished jurists (Fernández Mateos, Gortazar, Ruiz Huidobro, Bueno Arus) that the criminal legislation at present in force is unsatisfactory as regards the offences of racism and discrimination?

197. On this point, reference should be made to the bill to amend the Criminal Code, which is outlined in the reply to another question. There does, indeed, appear to be a need to improve the juridical mechanisms for protection against racism; it is also essential to make some progress in extending anti-racist attitudes to the whole of society, and this needs to start with more effective education from earliest childhood, combined with a policy of case-by-case interventions, such as those that have been developed by the Defender of the People, to do away with all assumptions generally based on racist attitudes.

46. Situation in Ceuta and Melilla

(See reply to question no. 18.)

47. Give details of the case of Lucrecia Pérez

1. Background

198. In the spring of 1990, the presence of persons originating from the Dominican Republic and employed in domestic work began to be noticed in the district of Aravaca, Madrid. In order to exchange news of their families, they began to meet peacefully in the Plaza de la Corona Boreal in that quarter on Thursday and Sunday afternoons. As time went by, the place gradually became a meeting point for other Dominicans from Madrid and the surrounding area, with numbers sometimes approaching 400. These meetings produced an adverse environmental effect on the square and the surrounding neighbourhood, giving rise to a certain degree of uneasiness among the residents. Although at the outset, these Dominican nationals had not regularized their situation in Spain, most of them are now in possession of residence permits.

2. Incidents

199. On 22 October last, during a meeting organized at the Civic Centre in the Plaza de la Corona Boreal in Aravaca to find a solution to this problem - to

which representatives of residents' associations, shopkeepers and the municipal authorities had been invited, the Madrid local police refused to admit a group of about 75 persons of Dominican nationality, who broke into spontaneous protests, shouting slogans such as "a united people will never be overcome" and obstructing the traffic for a few minutes. However, order was restored with the arrival of the Civil Guard.

200. On the afternoon of Sunday, 1 November, members of the Madrid local police were on duty in this square, where the Dominican nationals were congregating as usual, and required them to produce proof of identity. This identity check revealed the illegal situation of some of the persons concerned, whom the police proceeded to arrest.

201. The policemen were then upbraided by the crowd, which complained of persecution in being repeatedly required to produce identity documents, and accused the local police of provocation and aggression. Verbal abuse deteriorated into physical violence, as a result of which four Dominican women were arrested, four policemen were slightly injured, and seven police vehicles were damaged.

3. Assassination of Lucrecia Pérez Martos

202. At about 9.30 p.m. on Friday, 13 November, two masked men burst into the derelict "Four Roses" discothèque in Aravaca, where Lucrecia Pérez Martos, Porfirio Elias Pimental Felix, Enrique Céspedes Peña and Melbi González González were living in one of the rooms. One of the aggressors fired several shots, wounding the first two of them, which later resulted in the death of Lucrecia.

4. Steps taken

203. Surveillance and protection services were arranged to prevent a repetition of similar events. As a measure of prevention, a Civil Guard patrol was placed on duty from the day of this tragic event to maintain surveillance around the "Four Roses" discothèque and the "Los Bambinos" residence, where about 15 other immigrants were living.

204. The investigation was carried out by specialized officers of the judicial and information police from No. 112 Command Post, who followed up various lines of inquiry in the light of a number of working hypotheses.

205. Following the preliminary study carried out by the Ballistics Department of the Civil Guard Central Laboratory, it was presumed that the shots had been fired by the same weapon, either a Star BM 9 mm calibre Parabellum pistol or a gun with similar characteristics.

206. From the statements of passers-by concerning the presence of suspicious individuals and the description of the vehicle in which they had been sighted, the trail of Civil Guard Second Class, Luis Merino Pérez, was followed up. Comparison of the ballistic evidence with the weapon carried by that Guard accentuated suspicions, and he was therefore arrested together with his companions, who proved to be three minors. This Civil Guard had recently been placed under observation by his commanding officers on account of his violent

temperament and anomalous behaviour, which gave rise to a number of investigatory proceedings resulting in 10 penalties, 9 for minor misdemeanours and 1 for a serious misdemeanour, but not such as to warrant his dismissal from the force in accordance with current regulations. It was precisely on account of the observation of this individual by his commanding officers that it was possible to focus the investigation on him, in spite of the initial lack of clues.

207. This case, which produced a great scandal in the press and parts of Spanish society, was successfully resolved by the Civil Guard in 13 days. Although there were no clear indications initially, as we have said, once suspicion focused on a member of the force, human and material resources were stepped up remarkably until it was fully clarified, special care being taken to check on the possible existence of xenophobic organizations or mafias around this person; this was fortunately ruled out quite soon and it appears to have been an isolated incident due to insanity, which is less reprehensible. The pertinent proceedings were instituted by Examining Court No. 15 in Madrid and subsequently gave rise to Case No. 203/93.

208. The judgement in Case No. 203/93, rendered in the Provincial High Court of Madrid against the murderer and his accomplices on 4 July 1994, is attached (see annex XX).

48. Give an account of the Fraga incidents and the measures adopted to prevent such incidents in the future, in Fraga and elsewhere (Case of Fraga, Huesca: attacks on Maghrebi citizens by residents of Fraga, Province of Huesca, resulting in six Maghrebi injured and 22 residents of Fraga arrested)

209. At about 0.30 a.m. on 27 June 1993, the Civil Guard station at Fraga was informed by a telephone call from the local police that a group of Maghrebi who had been sleeping in the district of "La Pineda", near the urban centre of Fraga, had been assaulted by some local youths.

210. When the news was communicated by the duty officer to the post commander, the latter went to the scene, accompanied by some of his men and members of the Fraga Judicial Police. On reaching the scene, they found that six Maghrebi had been wounded, more or less seriously. Some 150 persons of Algerian origin were encountered heading for the town of Fraga in an angry mood with the intention of "avenging" their companions, but they were persuaded by the intervening unit to desist. The local Red Cross took the injured persons from the scene of the offence to the Fraga polyclinic and the Arnau y Vilanova de Lérida Hospital.

211. Following inquiries at the scene of the incident and on the basis of testimony by Algerians who had been sleeping at the nearby football ground and had gone to the aid of their compatriots, it was ascertained at 4.30 a.m. that a new Nissan Trade van, the property of Francisco Javier Ostariz Bigorda (40.889.665), a native and resident of Fraga (Calle Manuel Alabart, No. 13, first floor) born 30 September 1963, the son of José and Ramona Ostariz, might have taken part in the incident.

212. Mr. Ostariz's home was placed under discreet surveillance and, when he was detected returning there, he was arrested and taken to the local Civil Guard barracks.

213. In the presence of a lawyer, and after his rights had been read out to him, the person under arrest, Francisco Javier Ostariz Bigorda, gave the names of various other persons who had been involved in the incident, and stated that the van was hidden in a garage owned by a friend. The van in question, with the licence plate HU-1622-K, was found in a garage owned by Manuel Alvarez Soro, who was also arrested. There were cracks in the glass at the front of the vehicle caused by the impact of stones, and inside it were found four cudgels made of thick electric cable with insulating-tape handles, three wooden clubs, two of them stained with blood, and three iron bars, one of which was also bloodstained. The vehicle was impounded and held at the barracks, at the disposal of the court.

214. The men under arrest implicated four other persons in their statements (David Barrena Huerta, Oscar Chine Gil, Javier Antoni Salo Sorolla and Francisco Griñan Reches), who were consequently arrested the next morning (27 June) and admitted their participation in the incident, in statements made in the presence of counsel, although they gave contradictory accounts of their degree of involvement.

215. When the presiding judge of the Fraga Examining Court paid an official visit to the Civil Guard barracks, he gave instructions that the wounded persons be found and placed under his authority and that the evidence collected and the objects used in the attack be handed over to the court that same afternoon and held at his disposal.

216. The statements of the six arrested persons, who were remanded in custody by order of the court, revealed the involvement in the incident of 16 other persons, who were arrested in the course of Monday 19 June. Some members of the group (Nuñez Amill, Terrado Salas, Barrafon Solanes, Peiret Saura, Ibarz Soriano and Cabos Vidallet) were placed in the Huesca provincial prison, while the rest were provisionally released without bail.

217. It was ascertained from the statements made by the detainees that the assault was a premeditated one, having been arranged at the "Bar Enterpe" in Fraga, one of a number of bars patronized by young people in the Plaza de España. Leaving the bar with a van, three cars and a number of motorcycles, the group headed towards the "La Pinada" area, where they surrounded a small group of Maghrebi and began beating them until they saw a large group of some 150 persons coming to the aid of the victims of the attack; at that point, they left the scene after their vehicles had been hit by stones thrown by the members of the latter group.

218. These events caused a considerable stir at all levels of society and gave rise to some tense moments in Fraga, especially when the Civil Guard was transferring the six detainees to the Examining Court. The Civil Guard had to be supported by GRS Unit No. 5 from Saragossa, which was sent to the town to forestall any breaches of the peace and protect the premises and surroundings

of the Examining Court, given the large number of townsfolk who had gathered there to protest against the arrests. No further incidents were reported, however, and the town of Fraga currently remains calm.

219. The steps taken by the Civil Guard were reported to the Fraga Examining Magistrate, with a copy to the Procurator of the Huesca Provincial High Court (attached hereto is the judgement recently handed down in this case by the above-mentioned Court - see annex XXI). The convicted persons were sent to prison on 3 January of this year.

49. Incidents in Saragossa (El País, 22 February 1994). Have the soldiers been tried?

220. On 18 February 1994, the entrance of a discothèque in Saragossa was the scene of a riotous brawl pitting a number of Spanish soldiers who had just been demobilized against two Somali nationals and resulting in injuries to the latter and to several of the Spaniards.

221. As a result of this incident, the corresponding proceedings (case No. 181/94) were instituted by Examining Court No. 6 in Saragossa, and these gave rise to minor offence proceedings No. 220/94 before the Provincial High Court of Saragossa on 17 November 1994, where the soldiers were convicted of having caused bodily injury. (See the judgement of the Saragossa Provincial High Court in Annex XXII.)

50. Incidents at Huesca (El País, 3 March 1994). Can the Attorney-General appeal against the judgement and does he intend to do so?

222. The Attorney-General does not intend to appeal against the judgement which he considers appropriate to the argument by the prosecution.

51. Incidents at Mancha Real: Details, please

1. Death of a person in a brawl

223. At about 1.15 a.m. on 18 May 1991, the Civil Guard station at Mancha Real was informed of a brawl resulting in injuries to several persons on Calle Torquilla. When the officers reached the scene of the incident, they found none of the quarrellers since they had been taken to various hospitals in Jaén. Angfi Arroyo Ibáñez died as a result of injuries sustained in the fight and his brothers Jesús and Manuel were treated for various knife wounds. José Romero Fernández was also admitted to a clinic with knife wounds and Julio Romero Amador and Antonio Romero Cortés were treated for various blows and contusions. Immediately thereafter, those of the alleged participants in the affray who had not been admitted to hospitals were arrested and placed at the disposal of the court.

2. Subsequent incidents

224. At 8.45 a.m. on the same day, when the death had become public knowledge, about 100 people gathered in the vicinity of the town hall, urging the Mayor to expel the Gypsies from the place.

225. The town council convoked a peaceful demonstration, in which some 5,000 persons participated and which passed through the neighbourhoods where the Gypsy families involved in the case lived, as well as other individuals previously arrested on suspicion of committing offences against property. No incidents were recorded. At the end of the march, the Mayor addressed the participants and assured them that future demonstrations could well be more violent if the insecurity in which the population lived was not ended once and for all. Having promised to deal decisively with the Gypsies who had killed their neighbour and with local delinquents, he called on those present to take part in another march after the funeral of the deceased, which would cover the same route, and invited them to bring paint with which to mark the doors of the houses whose occupants had to get out.

226. After the burial the next day, and under cover of the march, a group of individuals carrying axes, picks and other blunt instruments burst through the police lines, broke down the door of a house and went inside. A total of seven dwellings were broken into and one vehicle was burnt.

227. The police presence deployed that day to protect persons and property comprised one captain, two lieutenants and 52 non-commissioned officers and men.

3. Police inquiries

228. In response to these events, the necessary steps were taken to find the persons guilty of unlawful entry and resisting the forces of order, leading to the identification of nine local residents who were remanded in custody by the judicial authorities, while six others were released on bail of 500,000 pesetas.

4. Burning of a house and car and protective measures adopted

229. On 18 June, as a result of the previous arrests, a demonstration of some 200 local residents was organized. A tense calm continued to prevail in subsequent days, ending on 28 June in the burning of a house and a car owned by a family which had returned to Mancha Real after leaving the town in the wake of the above-mentioned acts of destruction.

230. In view of the gradual return to their homes of the Gypsy families which had fled, a protection and surveillance operation was organized by the Civil Guard to prevent future incidents.

5. Incidents at school

231. From 16 September onwards, a number of incidents, demonstrations and attempted assaults occurred as the children of Gypsy origin returned to school. Civil Guard forces protected the building to prevent attacks on the children and their families.

6. Sexual assault

232. On 19 September, an individual of Gypsy race with a long criminal record, resident in Mancha Real, was arrested on suspicion of having sexually

assaulted a woman who had been slightly injured. A group of some 80 people attempted to attack the arrested person who was protected by the Civil Guard.

233. In connection with the facts reported, proceedings were initially brought in Jaén Examining Court No. 4 (case No. 645/91 PA) and subsequently before the Provincial High Court of Jaén for the offences of arson, damage and illegal demonstrations. Judgement against the accused, Alfonso Martínez de la Hoz (Mayor of Mancha Real) and others, was given by the above-mentioned Court on 23 October 1992, but was quashed and annulled by decision No. 1360/94 of the second chamber of the Supreme Court, dated 2 July 1994.

234. According to the judgement in question, the Mayor and the other accused were found guilty of offences against freedom of residence, of unlawful demonstrations, of repeated damage, etc. (see the judgement in annex XXIII).

52. How is protection organized in practice for the rights recognized in article 5, paragraphs (d) and (f), of the Convention?

235. In addition to the Constitution, there are other laws for the protection of fundamental rights:

Act No. 62/78, of 26 December 1978, on the judicial protection of personal rights;

Organization of the Judiciary Act (No. 5/85 of 1 July 1985) which provides that the entire range of rights and freedoms recognized in Title I of the Constitution are binding on all judges and courts. On the other hand, when all judicial remedies have been exhausted, citizens may appeal to the Constitutional Court by means of an application for amparo (art. 53, para. 2, of the Constitution);

Article 41 of the Constitutional Court (Organization) Act develops this rule, pointing out that the rights and freedoms recognized in articles 14 to 29 of the Constitution shall be amenable to constitutional protection, in the cases and forms laid down by the Act, without prejudice to the supervision entrusted to the courts of justice.

236. On the other hand, the activities of the non-governmental organizations in our country should also be mentioned, inasmuch as they constitute the most direct channel and natural transmission belt for all matters relating to the exercise of the rights recognized in article 5, paragraphs (d) and (f), of the Convention (see the answer to question no. 38). The intervention of the Defender of the People (Ombudsman) can also be another important element in securing the practical protection of those rights.

53. It appears that Africans are not allowed access to public places such as discothèques. How are the rights provided for in article 5, paragraph (f), of the Convention protected and what measures have been adopted to comply with article 6?

237. In the course of 1993, the Ombudsman handled a complaint along these lines and started a general investigation involving both local and autonomous authorities in the areas where the acts took place, demanding compliance with

the rules applicable to public entertainment, in an attempt to ensure observance of the right of admission to public premises.

238. While it is true that the Criminal Code in force contains no classification of an offence of racism strictu sensu, if instances of bodily harm or damage to property occur, the intervention of the Office of the Attorney-General either directly or as a result of a communication from the Ombudsman, provides general protection for any persons subjected to racist attacks.

239. It is likely that the inclusion of a rule concerning aggravating circumstances in the draft criminal code currently being considered by Parliament will give full effect to article 6 of the Convention. (See the articles of the draft criminal code in the answer to question no. 30.)

54. Cultural activities to disseminate racial respect and tolerance

240. The Ministry of Culture, through its General Directorate of Cultural Cooperation, holds various annual meetings concerning subsidies. One of the subsidies' objectives is to encourage multicultural initiatives likely to assist the integration of immigrants or cultural minorities. Several such subsidies were granted in 1994, for activities aimed at spreading racial respect and tolerance and combating racism, xenophobia and all types of discrimination. The following were the subsidies granted:

(a) Subsidies for the training of professionals in the arts and cultural industries:

Friends of the sephardic Museum of Toledo:

Summer course of Judeo-Spanish and Sephardic culture	1,000,000 Ptas

Spanish Centre for Latin American studies:

Training course for cultural administrators for Latin America	3,500,000 Ptas

(b) Subsidies for cultural cooperation, promotion and dissemination:

Association of Friends of Indigenous Architecture, "Inter-Action":

Second Latin-American Seminar on Popular Culture, Tourism and Sustainable Rural Development	1,000,000 Ptas

Friends of China Association:

Cycle of Lectures on Chinese Culture	1,000,000 Ptas

Hispano-Hellenic Cultural Association:

Byzantine Symposia and Exhibitions	850,000 Ptas

"Las Segovias" Association for Cooperation with the South:	
Cultural Conferences on Latin America in Spain	2,000,000 Ptas
Association of Immigrant Moroccan Workers in Spain (ATIME):	
Cultural week, "Moroccan Immigrants: an encounter between two cultures"	500,000 Ptas
Centre for the promotion of Andean culture:	
Production of a video cassette, "Hispanic elements in the dance and music of the Andean zone of Latin America"	500,000 Ptas
Spanish Centre for Latin American Studies Foundation:	
Training of Latin-American cultural administrators	2,000,000 Ptas
May Day Cultural Foundation:	
Seminar: "Culture: Europe/Spain".	2,150,000 Ptas
Institute for political studies on Latin America-Africa (IEPALA):	
Distribution of the "Third World Guide" and information and culture dissemination service on Africa and the Arab world.	1,000,000 Ptas
Movement for peace, disarmament and freedom:	
Seminar: The culture of solidarity and tolerance as an experience of Spanish society.	5,000,000 Ptas

241. The Ministry of Culture established the National Museum of Anthropology in 1993, by merging the National Museum of Ethnology and the Museum of the Spanish People, the principal objective being to use anthropology to demonstrate the unity and diversity of cultural expressions in both Spain and the rest of the world, especially in regions with which our country has historically had close relations. This Museum programmes exhibitions and other activities designed to provide a comprehensive view of other cultures in order to explain to the public the central idea of anthropology: survival of pluralism and dissemination of tolerance among cultures.

242. In recent years, the National Museum of Ethnology, aware of its role in disseminating the values of cultural pluralism and its responsibility to combat growing xenophobia, has conducted programmes of activities in which the

members of immigrant communities residing in Madrid have participated in some manner. These activities have consisted of two seasonal exhibitions:

Saharans, life and traditional culture of the Western Sahara, held in the Museum in 1990 and subsequently exhibited in various places throughout Spain. The purpose of this exhibition was to familiarize the public with various aspects of traditional Saharan life and to indicate how it has changed, but, above all, to draw the public's attention to the past and present lifestyle of the Saharan people.

Africa, one century. This exhibition was organized in 1991 for the purpose of providing information on the multifaceted African culture and helping to improve present relations between that continent and the European Economic Community, in which Spain has a priority role to play because of its geographical proximity.

55. Do the mass media, and particularly television, attempt to avoid presenting degrading images of other races or peoples?

243. The Radio and Television Statute, contained in Act No. 4/80 of 10 January 1980 a copy of which is attached, establishes in article 4 a series of principles designed to guide the work of the media, one of which is "respect for political, religious, social, cultural and linguistic pluralism".

244. The Rules Regulating Television Advertising, contained in the Resolution of 17 April 1990 (copy attached), refer indirectly to this issue in rule 5 of the General Rules:

"Inadmissible advertising: Advertising that encourages violence or antisocial behaviour, appeals to fear or superstition, or indirectly fosters abuses, indiscretion, negligence or aggressive behaviour.

Behaviour inciting to cruelty to and ill-treatment of persons or animals, or the destruction of cultural or natural resources, shall also be considered inadmissible."

245. In furtherance of these principles, Radio-Televisión Española (RTVE) has developed some guidelines for preventing the contents of its programmes from being insulting to any ethnic minority or people. Worthy of mention in this regard is the second prize awarded in 1994 to the video "Anti-Xenophobia", produced by Sergio Vidal, which RTVE entered in the contest sponsored by the Council of Europe, "For a Europe of tolerance. Against xenophobia", open to all videos helping promote tolerance in Europe and dealing critically with the topic of violence against foreigners and minorities. (Documentation on the contest is attached.)

246. Programming and content standards, including a special chapter on the protection of minorities against racism and xenophobia, are pending approval by RTVE.

247. Act No. 10/88 of 10 May 1988, on the Regulation of Private Television, refers indirectly to the topic in chapter IV, "Infringements and penalties", article 24, subparagraph 2 (c): "The deliberate violation of the laws in force on the right to honour, privacy and self-image ...".

248. Article 2 of Act No. 11/1991 of 8 April 1991, on the Organization and Control of Municipal Transmitters, stipulates that one of the principles on which the activities of municipal radio transmitters shall be based is "respect for political, religious, social, cultural and linguistic pluralism".

249. Copies of these last two instruments are also attached.

250. Reference is also made to the contents of the reply to question No. 13 on the existence of an agreement on the protection of the culture and image of ethnic minorities in the mass media, signed by the Ministry of Social Affairs and the Autonomous Communities on 3 November 1994.

III. QUESTIONS BY MR. DE GOUTTES

56. General question on discrimination against the Gypsy minority and the working conditions of Maghrebi immigrants in the Fraga area

251. Without prejudice to the activities of the Ombudsman already mentioned, as regards the elimination of the discriminatory semantic term gitanada, other practical activities of the institution in connection with Gypsies have been those relating to the Consortium for the Housing of the Madrid Gypsy Population in the areas of Vicálvaro-San Blas, La Celsa and others, where the Ombudsman visited various Gypsy settlements for the purpose of seeking direct solutions to the rehousing problem with the Madrid Municipal Corporation and the Madrid Autonomous Community, or his intervention in the case of the forcible eviction and the demolition of shanties in the Matalablima quarter of Oviedo.

252. On the other hand, with respect to the conditions of employment and work in specific areas of Spanish territory, the Ombudsman has carried out a very practical follow-up operation in connection with the conditions of work of Maghrebi immigrants throughout the area of Fraga, Province of Huesca, contacting town halls, law-enforcement bodies and the Provincial Labour Directorate.

253. The Ombudsman's last two annual reports each contains a chapter devoted to the examination of the rights and freedoms of foreigners in Spain, in which full coverage is given to the problems arising from the measures restricting immigration which, although they cannot be regarded as directly violating the provisions of the Convention, may indirectly give rise in practice to discrimination. Such is the case, for example, of the immigrants from Central African countries who are living in the Melilla Red Cross reception centre under subhuman conditions, a situation that dates from 1992. The Ombudsman, making use of all the possibilities open to him under the Organization Act, carried out an inspection to determine the facts and, subsequently, made a series of recommendations to the proper administrative bodies and brought the facts he had discovered to the knowledge of Parliament, so that it could adequately follow up the situation.

254. Lastly, it should be mentioned that, in connection with the effective implementation of the general principle recognized in article 5 of the Convention, namely, the obligation to prohibit and eliminate racial discrimination in all its forms and to guarantee the equality of everyone before the law, the Ombudsman, bearing in mind the fact that his mandate requires him to protect the fundamental rights recognized by the Constitution, is systematically developing his work and requiring the public administrations to comply with that principle in all their day-to-day activities.

57. Are there statistics on racist acts?

255. Statistics are kept on complaints of racism submitted to the police stations (see the replies to questions Nos. 25-29 on racist and xenophobic attitudes).

58. How are the responsibilities of the Defender of the People (Ombudsman) coordinated with those of the judicial authorities? Is he empowered to transmit complaints to the Administration? Can he intervene at his own discretion? A special reference to complaints of racial discrimination would be appreciated

256. Information on nearly all these questions has already been provided in the earlier replies. As concerns the first question, however, it can be stated that article 15 of the Defender of the People (Organization) Act stipulates that when he learns of an apparently criminal act or behaviour, he shall immediately inform the Attorney-General. It also states that he may ex officio institute judicial liability proceedings against public employees.

257. His 1993 report contains about 10 complaints of racial discrimination, which are examined in detail on pages 18-23 of the report.

258. One example of the effectiveness of the Ombudsman's intervention is the fact that disciplinary proceedings were instituted against a medical practitioner in the Canary Islands, who was charged with a serious misdemeanour for expelling a nurse from an operating theatre for no other reason than the fact that she belonged to the black race.

259. Lastly, it should be mentioned that any public employee who obstructs action by the Ombudsman is liable to be charged with the offence of insubordination.

IV. QUESTIONS BY MR. VALENCIA RODRIGUEZ

59. Explain the legal restrictions to which aliens are subject in the enjoyment of their rights

260. Article 13, paragraph 1, of the Constitution guarantees foreigners the enjoyment of the public freedoms guaranteed by Title One, under the terms to be laid down by treaties and the law.

261. Articles 4 to 10 of Act No. 7/1985, of 1 July 1985, on the rights and freedoms of foreigners in Spain, lay down the conditions under which foreigners may exercise certain rights, which include some limitations, such as the right to vote (art. 5, para. 1). Other limitations, contained in articles 7 and 8, were found to be unconstitutional in the constitutional court judgement of 7 July 1978 (see annex XII).

60. Changes to the aliens regime in Spain arising from its membership of the European Union, particularly with respect to the right to vote and the entry of immigrants

262. In order to provide for the possibility of voting and standing for office in the recent elections to the European Parliament, it was necessary to amend article 13, paragraph 2, of the Constitution. This was done on 27 August 1992.

263. A guideline will shortly be issued providing foreigners from EU countries with the right to vote and to stand for office in municipal elections. In addition, there are currently bilateral agreements in existence with Denmark, Netherlands, Sweden and Norway providing the right to vote and to stand for office for Spaniards in those countries and vice versa.

61. Will the review of article 165 and 181 bis of the Criminal Code be in keeping with the provisions of the Convention?

264. The amendments to the Criminal Code currently in progress will no doubt provide a useful instrument for combating racism and xenophobia from the punitive point of view and therefore for complying more effectively with the principles laid down in the Convention.

62. Provide information on any parliamentary debate held on the amendments to the Criminal Code

265. There has been no parliamentary debate so far.

63. What has been the result of the introduction of linguistic freedom, i.e. the use of their own languages, in the various Autonomous Communities?

266. An analysis of linguistic developments in Spain since the recovery of freedoms is a complex affair, which takes on different nuances according to the perspective from which it is considered.

267. In the first place, the situation must be regarded as positive from a cultural point of view. If culture is diversity and language is the main element identifying a culture, there is no doubt that the policy of reviving the vernacular languages being followed by the Autonomous Communities has been beneficial. This is all the more true if the current situation is compared with the situation under the previous political regime, which deliberately ignored (when it did not persecute) the languages of Spain other than Spanish (Castilian).

268. This improvement in the recognition of the languages of the Autonomous Communities has been reflected in several factual situations, such as the existence of indigenous-language television channels: Euskal Telebista (Basque Country), TV3 (Catalonia), Canal Nou (Valencia), TVG (Galicia), Canal Sur (Andalusia), in the fact that many schools in the Autonomous Communities have the vernacular recognized as the official language and in the Cervantes Institute's project of providing classes in the indigenous languages of Spain in some of its centres.

269. As regards Spanish legislation in this area, there are various examples of the progress achieved:

(a) Article 3 of the Constitution stipulates that Spanish (Castilian) is the official language of the State but also that the other Spanish languages shall have official status in the respective Autonomous Communities in accordance with their Statutes, and that the rich array of languages in Spain is a cultural heritage that shall be given special respect and protection.

(b) Article 36 of the Juridical Regime (Public Authorities and Common Administrative Procedure) Act stipulates that "The language of proceedings conducted by the General Administration of the State shall be Spanish (Castilian). Notwithstanding this provision, persons concerned who address themselves to the organs of the General Administration of the State established in the territory of an Autonomous Community may also use the language that has joint official status in that Community. In this case, the proceedings shall be conducted in the language chosen by the person concerned. If a number of persons are involved in the proceedings and there is disagreement on the language to be used, the proceedings shall be conducted in Spanish (Castilian), although any documents or testimony required by the persons concerned shall be issued in the language chosen by the latter."

(c) Article 62 of the amended Senate Regulation adopted in January 1994 stipulates that, "Statements made at the meetings of the General Commission of the Autonomous Communities may be made in any of the languages having joint official status with Spanish (Castilian) in a particular Autonomous Community, in accordance with the Constitution and the corresponding Statute of Autonomy". This has already been put into effect, at the Autonomous Communities' debate held on 26 and 27 September 1994.

270. Annex XXV reproduces the data derived from a survey of a sample of 600 persons undertaken by the CIS in 1994.

271. On the other hand, mention should be made of a certain uneasiness among the people who do not speak the language of the Autonomous Community in which

they live. This is especially true of the inhabitants of Catalonia and the Basque Country who speak only Spanish (Castilian), most of whom have migrated from the poorest regions of Spain. The controversy has arisen principally as regards education. The linguistic-immersion policy followed by the Generalitat of Catalonia (all classes are given in Catalán in virtually all schools) has been criticized by the parents of pupils who do not have Catalán as their mother tongue. In Alava (a province of the Basque Country) pupils who do not wish to study Euskera must transfer to neighbouring Autonomous Communities. In addition, in both Catalonia and the Basque Country knowledge of the respective vernacular languages is required for access to civil service posts, and this in practice impedes access by citizens who were born in other Autonomous Communities or whose families are from other Autonomous Communities.

272. Whatever form the controversy takes, it appears for the moment to remain in the sphere of political discussion, and it would not be appropriate to speak of purely discriminatory or racist attitudes.

V. QUESTIONS BY MR. VAN BOVEN

(These were similar to those answered above, with one exception)

64. Is it true that Spain is unwilling to extradite Otto Remmer? If not, what is happening in this case?

273. The procedure for the extradition of Mr. Remmer, requested by Germany, is continuing. At the proposal of the Ministry of Justice and the Interior, the Cabinet decided on 8 July last to continue the extradition procedure so as to be able to open the judicial phase which is in progress in the National High Court.

274. There is therefore no unwillingness on the part of the Spanish Government to extradite the German national in question.

275. On 19 September 1993, the competent judge of the National High Court ordered the extradition file to be sent to the President of the Criminal Division (second section) of the National High Court. Since that date, the file in question has remained at the disposal of the Criminal Division.

276. The case is therefore in the judicial phase, in accordance with the passive extradition act of 21 May 1985. The Government is not permitted to interfere in the judicial process.

VI. QUESTIONS BY MR. WOLFRUM

65. Is it true that there is discrimination against children of colour as regards admission to day nurseries in Barcelona? If this is so what steps are being taken?

277. The Defender of the People (Ombudsman) has not received any specific complaints of cases of discrimination on grounds of race in access to public education centres or centres maintained with public funds. If that had been the case, he would have acted ex officio or requested the collaboration of the Sindic de Greuges (Catalonia's Ombudsman). The Constitution and the regulations applicable most certainly do not allow data referring to race to be taken into consideration in determining the possibility or otherwise of access to such centres.

278. It should, however, be borne in mind that pre-school education was incorporated into the education system only as a result of the latest act adopted in 1992. Until then, the activities of what were called "day nurseries" were not part of the education system and were therefore neither regulated nor supervised by the education authorities. As a result, private persons or organizations wishing to engage in activities characteristic of day nurseries required only the relevant municipal licence or authorization, but did not require any authorization from the education authorities.

279. According to the information communicated by the Education Commission of the Generalitat of Catalonia, there is no official record of any individual complaint of a case of racial discrimination in Catalonia with regard to admission to pre-school education centres or in connection with the other educational levels.

280. However, in the Premiá de Mar station of the 411th Police Command (Barcelona) it is known that, in June 1994, Dr. Maria Teresa Albert Huertas complained that the infant education day nursery "Ixaclot", situated in that locality, had exercised racial discrimination against her child of colour. No steps of any kind were taken, since there had been no specific complaint on police premises. However, the matter was widely reported by the mass media.

66. What is the situation of citizens of the Dominican Republic in Madrid?

281. Citizens of the Dominican Republic live in Madrid and in areas bordering on the N-VI highway (Madrid-La Coruña) and meet one another in the Aravaca quarter. They come from around the town of Vicente Noble. Normally they do not come to Spain in family units. A percentage, which varies between 75 and 80 per cent have legalized their situation. Some 20 or 25 per cent are in an illegal situation and have been brought into Spain through networks set up for the purpose.

282. Their employment is mainly in domestic service, while a small number of Dominican women engage in prostitution.

283. Protests have been made by some organizations of residents of Aravaca regarding the presence of Dominicans in the district.

284. Although specific incidents did in fact occur in 1992 with the colony of Dominican citizens settled in Madrid - essentially the death of Mrs. Lucrecia Perez - which led to a generalized problem with regard to their integration into Madrid society, it seems that the problem has not grown any worse. In any case, in addition to the steps taken by the law to punish those guilty of the murder of the above-mentioned citizen of the Dominican Republic, the competent administrations have adopted a series of measures to facilitate the integration of the largest groups concentrated in peripheral regions of the capital.

67. Is it true that the authorities have forcibly re-embarked illegal Maghrebi immigrants in their boats, causing loss of human lives? Are women and children also subjected to violent practices?

285. In his 1992 report, the Ombudsman referred to the action taken in the area of the Strait of Gibraltar concerning the passage of small boats which cross the Strait with clandestine African immigrants in extremely dangerous conditions; according to various reports, there has been a considerable number of accidents.

286. On receipt of this news, the Ombudsman took all the steps permitted by the Organization Act, from requesting a report to himself visiting the entire area on 7 October 1991, including the aliens' internment centre in Algeciras. He also visited the State security forces and corps and made contacts with judges and lawyers. The official data supplied to him between 10 March 1989 and 6 September 1992 were to the effect that 47 corpses had been found, none of them women or children.

287. It was evident from all the information available that the security authorities involved in these operations had taken precautions not to intercept the small boats on the high seas, although they had detected them, in order to ensure that there would be no shipwrecks and that the skippers of those vessels which belonged to organized groups and were carrying passengers illegally, would not throw the latter overboard.

288. All the recommendations made to the then Ministry of the Interior for the purpose of improving the general services of assistance to and internment of persons arriving in Spanish territory were adopted.

289. Since then, there have been no further reports of mass incidents like those which occurred at the time mentioned, although similar situations could well be repeated.

290. Where interventions with Maghrebi are concerned, there are no reports that the Spanish authorities have forcibly re-embarked illegal immigrants in their boats causing loss of human lives; the Maghrebi arrested are placed at the disposal of the National Police Corps, whose responsibility it is,

according to the regulations in force, to prepare the relevant expulsion order; once this has been done, on the orders of the Civil Government, the detainees are taken to the ports by the officers of the National Police Corps and embarked on vessels of the regular service between Algeciras and Tangiers; this is how they are expelled or sent back.

291. The police force do not therefore take part in any kind of return procedure of any type.

292. There is no information either concerning any violent practices against women and children for racial reasons.

VII. QUESTION BY MR. GARVALOV (CHAIRMAN)

68. What language is used in the armed forces? And in the police forces of the Autonomous Communities?

293. The armed forces use Spanish (Castilian), which is the official language of the State.

294. The autonomous police service of the Generalitat uses both Catalán and Castilian as official languages. Although the use of Catalán predominates in administrative documentation, in oral practice bilingual usage basically responds to situations requiring the language of the man in the street or the authorities, as appropriate, depending on who is addressing whom. For obvious reasons, there is a tendency towards Catalán, since it is the language most used by persons requiring the attention of the police.

295. In the Basque police, both Castilian and Euskera are used as official languages, as provided for by the legislation in force (Constitution, Statute of Autonomy and Act No. 4/1992 of 17 July on the police of the Basque Country). Generally speaking, and as far as is possible, everyone is attended to the language he speaks, if he does not speak the official languages of the Basque Autonomous Community.

296. The other Autonomous Communities which have their own languages do not, for the time being, have autonomous police forces properly so called.

VIII. QUESTIONS BY MR. RECHETOV

69. The devolution process in Spain. Current problems. Relationship between and coordination of the Central Administration and the administration of the Autonomous Communities

(He is particularly interested in having a description of the Spanish devolution process. He is already familiar with all the relevant constitutional provisions, but would like to know what problems are being encountered in the relationship between and coordination of the Central Administration and the regional administrations and the problems caused by separatist movements, including terrorist groups. In short he is interested in having a clear picture of the functioning of the State based on regional autonomy)

297. In line with a conception traditionally found in comparative law and habitually employed in legal doctrine, the Spanish Constitution of 1978 has opted for a basically dual model of distribution of powers, in which a group of matters which come under the jurisdiction of the State coexists with other matters which fall within the purview of the jurisdiction of the Autonomous Communities.

298. This assertion must be nuanced by the fact that matters exist in which the jurisdiction of two administrations is shared. In such situations, cooperation is necessary to guarantee the correct harmonization of the activities of both, since it is not possible to legislate on a matter if it is not known how its executive activities will normally be carried out. Similarly, execution may be difficult if the spirit of the legislation is not known or not shared.

299. On this initial basis, cooperation acts as a feedback mechanism which, on the one hand, allows a greater rapprochement between the legal rules and the facts of social life and, on the other, ensures that there are no interpretations other than those desired by the legal rules.

300. It should, however, be borne in mind that we frequently encounter situations where cooperation is not only necessary because of the distribution of powers in the matter, as mentioned above, but is also essential because of the coexistence of other areas of jurisdiction to which the Constitution gives different treatment, but which affect the exercise of the various administrative functions.

301. The foundation of inter-administration cooperation is thus to be found basically in the form in which the functions are distributed, but also in the existence of various levels of political power with different levels of responsibility in their exercise.

302. In this situation, the existence of mechanisms of coordination between the territorial units of the State is part of the raison d'être of the State with regional autonomy to the extent that its efficient functioning requires machinery which operates through various forms of collaboration and cooperation.

303. In view of this requirement, article 103, paragraph 1, of the Constitution establishes coordination as a principle to which the public administration must adhere, and a detailed perusal of article 149, paragraph 1, of the Constitution highlights the existence of certain general State powers which, on the one hand, act as guarantees of unity and, on the other, make it necessary to establish machinery for cooperation between the administrations.

304. The principle of cooperation has been defined by constitutional doctrine as a principle which "it is not necessary to justify in concrete precepts since it is implicit in the very essence of the form of territorial organization of the State as established by the Constitution" (Constitutional Court Judgements 90/1985, of 4 July 1995, and 96/1986 of 10 July 1986.

305. This principle has also been defined as the criterion which must permeate and govern relations between the State and the Autonomous Communities to the mutual benefit of both (Constitutional Court Judgements 64/1982, of 4 November 1982; 71/1983, of 29 July 1983; and 104/1988, of 8 June 1988).

306. The Constitutional Court has also specified (Judgement No. 18/1982), with reference to the manner in which the various territorial powers are to be interrelated, that the duty to collaborate, to which the State and the Autonomous Communities are reciprocally subject, does not involve any extension of State powers. Thus, the State may not attempt to impose that duty by adopting coercive measures but must seek, for such measures as have to be adopted, the prior approval of the competent Autonomous Communities which, in this way, participate in establishing the will of the State (Judgements No. 80/1985 and 96/1986).

307. In accordance with this constitutional principle and the opinion of the Constitutional Court, the principles of collaboration and cooperation, and of coordination in specific cases, have been part of the practice of the State with regional autonomy practically since its earliest steps in 1979, although, quite logically, this progress has gradually been intensified and improved, developing into a process which has many points in common with that which took place in the Federal Republic of Germany after 1949.

308. At the present time, the collaboration machinery is structured around organizational collaboration, in other words the existence of bodies of mixed composition, comprising representatives of the Central Administration and of all the Autonomous Communities with jurisdiction to deal with topics connected with a specific matter.

309. The number of these bodies, the frequency of their meetings and the nature of the topics they discuss provide a fairly detailed picture of the range of cooperation in the State with regional autonomy. Merely as an illustration, it should be borne in mind that there are currently 353 bodies in existence, of which 32 are at the highest level, that is, they include a minister and the pertinent counsellors of the Autonomous Communities.

310. The discussions in these bodies may be based on a material criterion, since they are specialized organs dealing with specific subjects, or on the criterion of the level of representativeness of their members. A distinction can be made between first-level bodies, with a maximum range of representatives of the different parties, second-level bodies, on which the representatives are directors-general, or third-level bodies such as working groups, technical commissions, etc.

311. Outstanding for its importance among the subjects habitually discussed in such meetings are the scrutiny of draft State regulations which will affect the Autonomous Communities, the assessment of projects and plans of action in which both administrations are required to take part, discussion of the effects of the regulations and plans of the European Communities, etc.

312. Article 5 of the Juridical Regime (Public Authorities and Common Administrative Procedure) Act No. 30/1992 of 26 November 1992, provides an improved version of the line laid down in article 4 of Act No. 12/1983 of 14 October 1983 on the devolution process, and confirms the institution of organizational cooperation as the core of general administrative cooperation.

313. Organizational cooperation is supplemented by the formal conclusion of collaboration agreements between the State and its Central Administration and the Autonomous Communities. So far (up to 15 December 1994), 2,690 agreements have been negotiated in the Governmental Commission for Devolution Policy and subsequently registered.

314. The contents of these agreements are particularly heterogenous and the commitments made are diverse in their nature and aims. Despite these difficulties, however, different types of agreement particularly used in the development of the State with regional autonomy may be considered:

1. Agreements for the exchange of information between the Central Administration and an autonomous administration;

2. Agreements for the joint financing of activities by the State and an Autonomous Community;

3. Agreements for the management by an administration of services within the jurisdiction of another administration; and

4. Agreements for establishing a general stable framework of coordination, normally of an organizational type, among the parties signing the agreement.

315. As in the case of organizational collaboration, the collaboration agreements have gradually improved, both in terms of extending the various areas of collaboration to all or most of the Autonomous Communities and in respect of the aspects which have to be dealt with in the various texts; this process has culminated in the express regulation of these instruments in article 6 of the Juridical Regime (Public Authorities and Common Administrative Procedure) Act No. 30/1992 of 26 November 1992.

316. The full picture of inter-administration cooperation is not restricted to the instruments dealt with, although these are of major importance; it also extends to other instruments which, in their turn, are characterized by their diversity and their informal nature. They include the distribution of State subsidies among the Autonomous Communities, the programme contracts between the Central Administration and public enterprises attached to the autonomous administrations, the formulation and implementation of joint plans and programmes and, in general, all forms of procedural collaboration, which are particularly frequent in contemporary Spanish positive law.

317. As for the problem of terrorism by separatist groups, this is regarded as coming under the jurisdiction of another United Nations forum.